

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

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W.P.No.22516 of 2011

Between:

G.Kondal Reddy

.. Petitioner

and

The Executive Magistrate - Tahsildar, Visakhapatnam Urban,
Visakhapatnam and another.

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 03.8.2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

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| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals? | Yes/No |
| 3. Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? | Yes/No |

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

W.P.No.22516 of 2011

ORDER:

Heard learned counsel for the petitioner and the learned Government Pleader for Revenue (Andhra Pradesh State) appearing for respondent No.1 and learned Government Pleader for Home (Andhra Pradesh State) appearing for respondent No.2.

2. The writ petition is filed seeking to issue a writ of *Mandamus* to declare the action of the respondents in not releasing black coloured Innova Car bearing No.AP 31 BG T/R 0369 as illegal and arbitrary, and consequently, to direct the respondents to forthwith order for release of the said car to the petitioner.

3. The facts of the case are that one R.Srinivasa Rao purchased the aforementioned car during October-November, 2009 by taking loan from Magma Fincorp Limited. Subsequently, he approached the petitioner and expressed his willingness to sell the vehicle to him. The petitioner agreed to purchase the vehicle. After receiving the sale consideration during July/August, 2010, the said Srinivasa Rao produced 'No objection certificate' issued by Magma Fincorp Limited and also executed necessary forms for transfer of the vehicle in the name of the petitioner. He handed over the original temporary registration certificate to the petitioner and stated that he would hand over the vehicle in the last week of August, 2010. It is stated that subsequently, the whereabouts of said Srinivasa Rao are not known. On an enquiry made by the petitioner, he came to know that the vehicle was seized by respondent No.2 under a cover of panchanama and the same was produced before respondent No.1 on 20.8.2010 in connection with Crime No.428 of 2010 of Visakhapatnam IV Town Police Station, Visakhapatnam. Since the vehicle is in the custody of respondent No.1, the present writ petition is filed seeking a direction to the respondents to order release of the said vehicle.

4. Learned counsel for the petitioner submits that a case in Crime No.428 of 2010 of Visakhapatnam IV Town Police Station, Visakhapatnam came to be registered against some unknown persons for an offence punishable under Section 102 Cr.P.C.; that the occurrence report shows that the said vehicle was parked long back without number plate and nobody has taken the vehicle and since the vehicle was not claimed by anybody, it was seized and brought to police station for safe custody; that if the said vehicle is kept idle, it would get damaged due to exposure to sun and rain and hence, he prays to allow the writ petition.

5. Learned Government Pleaders, on instructions, submit that the above said vehicle was not seized; that an appropriate remedy available to the petitioner would be to file an application under Section 451 Cr.P.C. before the Magistrate Court concerned and hence, pray to dismiss the writ petition.

6. It is to be noted that the vehicle sought to be released in this writ petition was seized pursuant to the registration of a case in Crime No.428 of 2010 of Visakhapatnam IV Town Police Station. It may be true that respondent No.2 might have seized the vehicle and might have produced the same before respondent No.1, but once a vehicle is seized in connection with a crime, appropriate remedy available to a party would be to invoke the jurisdiction of the Code of Criminal Procedure, 1973 by filing an application under Section 451 Cr.P.C. Giving liberty to avail the remedy of making an application under Section 451 Cr.P.C. before the Magistrate Court concerned, the Writ Petition is disposed of. There shall be no order as to costs.

7. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

Date: 03.8.2015
AMD

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THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

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DATE: 03.08.2015

AMD