

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.730 of 2015

ORDER:-

The present revision is filed under Sections 397 and 401 Cr.P.C. questioning the order dated 24.04.2015 passed in CrI.M.P.No.1334 of 2015 in Crime No.30 of 2015 on the file of the Judicial Magistrate of First Class, Kalwakurthy, wherein and where under the petition filed under Section 451 Cr.P.C. seeking interim custody of Motor bike bearing No. AP 22 AH 3516 was rejected.

The petitioner is a registered owner of the vehicle bearing No. AP 22 AH 3516. A case in Crime No.30 of 2015 of Vangoor Police Station came to be registered against the accused for the offences punishable under Section 7 (A) read with 8 (e) of Andhra Pradesh Prohibition Act, 1995.

Learned counsel for the petitioner mainly submits that the petitioner, who is the owner of the vehicle has nothing to do with the offence and that no useful purpose would be served in keeping the vehicle idle at the police station as the same may get damaged due to its exposure to sun and rain.

The learned Additional Public Prosecutor though opposed the application contending that the vehicle was involved in excise offences, but however states that there is no dispute with regard to ownership of the vehicle and also the vehicle being in the custody of the police.

A perusal of the material placed before this Court would indicate that a petition filed under Section 451 of Cr.P.C. seeking release of the vehicle was rejected by the learned Magistrate on the ground that the said Court has no jurisdiction to release the vehicle.

I n *M/s. Amruthavarshini Dairy Farms Private Limited v. The state (CrI.R.C.No.2484 of 2012 dated 11.12.2012)* a learned Single Judge of this Court held that the criminal Court has jurisdiction to entertain the application for interim custody of the vehicle involved in offence under the Andhra Pradesh Prohibition Act.

In ***Surenderbhai Ambalal Desai v. State of Gujarat***, the Apex Court has laid down that in case of vehicles seized during investigation, they should not

be allowed to deteriorate by being kept unused and unattended in the premises of the Police Stations. Therefore, the vehicle has to be entrusted to the interim custody of the petitioner subject to appropriate conditions.

Taking into consideration the facts and circumstances of the case and having regard to the principles of law laid down by the Apex Court in the decision stated supra, I am inclined to grant interim custody of the vehicle Motor Bike bearing No. AP 22 AH 3516 seized in Crime No.30 of 2015 of Vangoor Police Station, in favour of the petitioner, provided the vehicle in the custody of the regular police and no confiscation proceedings are initiated, on the following terms and conditions.

- i. The petitioner shall execute a personal bond for Rs.1,00,000/- (Rupees one lakh only) with one surety for a like sum to the satisfaction of the Judicial Magistrate of First Class, Kalwakurthy.
- ii. The petitioner shall deposit the original Registration Certificate of the vehicle in the Court.
- iii. The petitioner shall give an undertaking to produce the vehicle as and when required by the Court and also an undertaking not to alienate, encumber or alter the physical features of the vehicle bearing registration No.AP 22 AH 3516.
- iv. This order shall not preclude the authorities in proceeding further in accordance with law.

Accordingly, the Criminal Revision Case is allowed.

As a sequel thereto, Miscellaneous Petitions pending if any in this criminal revision, shall stand closed.

C. PRAVEEN KUMAR, J

01.05.2015

gkv

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

Criminal Revision Case No. 493 of 2015

9th April, 2015

cbs