

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.2353 OF 2015

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ORDER:

The petitioner filed the present Criminal Revision Case by invoking the provisions under Sections 397 and 401 of the Code of Criminal Procedure being aggrieved over the order dated 05.10.2015 passed in CrI.M.P. No.1359 of 2015 in Crime No.47 of 2015 by the Judicial Magistrate of First Class, Narayankhed, Medak District.

Heard and perused the material available on record.

While the petitioner was transporting the cattle in a van, to Bidar market, the Police, Kangti PS., seized them on the ground that the petitioner violated the provisions of Section 11 (1) of the Prevention of cruelty to Animals Act. When petitioner approached the Court below with the impugned application seeking release of the cattle seized in the above crime, the learned Magistrate dismissed the same vide impugned order.

Learned Counsel for the petitioner submitted that the petitioner is the owner of the said cattle and that he being the trader purchased them for the purpose of resale at higher price and while he was transporting them to Bidar market for resale, the police seized them and registered the above crime. It is also submitted that the petitioner is procuring the cattle from the agriculturists since they could not maintain the cattle due to the drought situation prevailing in the State and that the petitioner intends to sell the said cattle in the other States. Finally, he submitted that the petitioner is ready to furnish surety for release of the said animals and he is also ready to produce the same as and when directed by the Court.

On the other hand, the learned counsel appearing for the second respondent opposed the petition and contended that since the animals are subjected to cruelty,

there is a provision under the Act for confiscation, if necessary, in the facts and circumstances of the case. He relied on the judgments of the various High Courts in this regard. The said judgments are based on the factual aspects. It is further contended that the petitioner being the trader in cattle transported the cattle seized just two days prior to Bakrid and therefore, it should be presumed that the said cattle is being transported only for the purpose of slaughtering. This Court is of the view that unless and otherwise there is specific provision in the Act or any other law to presume things, this Court cannot presume the things on its own. The fact remains that there is no specific law prohibiting slaughtering of buffalos, but the same is governed by some Rules.

Be that as it may, the allegation against the petitioner is that he was transporting cattle in a DCM Van by tying their legs and horns, which is contrary to the rules. There is no dispute that the offence alleged under the provisions of Prevention of Cruelty to Animals Act, 1960. If at all, the petitioner is found guilty for the alleged offence, he is liable to be punished with sentence of fine only. Hence, considering the facts and circumstances of the case, this Court is of the view that return of the seized cattle to the petitioner would not cause any prejudice to the trial of the case and, hence, this Court is inclined to pass the following order:

The petitioner is directed to file an affidavit before the Court below informing that he will transport the cattle strictly in accordance with the provisions of Section 11 (1),(a),(d),(e),(h) of Prevention of cruelty to Animals Act. On filing of such affidavit, the Court below is directed to release the seized cattle to the petitioner for his interim custody on his executing a personal bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with one surety to the satisfaction of the Court below.

With the above directions, the Criminal Revision Case is disposed of. Consequently, miscellaneous petitions filed in this revision, if any, shall stand closed.

RAJA ELANGO, J

December 04, 2015

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