

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1024 OF 2015

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ORDER:

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Petitioners, claiming to be the owners of the Vehicle filed this Criminal Revision Case by invoking the provision under Sections 397 and 401 of the Criminal Procedure Code being aggrieved by the order dated 5.05.2015 passed in CrI.M.P.No.61 of 2015 in C.C. No.272 of 2011 by the Judicial Magistrate of First Class, Narsipatnam.

Heard.

On the complaint lodged by the deceased-Venkata Reddy a case was registered and on filing charge sheet cognizance of offence was taken in C.C.No.272 of 2011 for the charge under Section 379 IPC r/w 34 and Section 411 IPC for committing the theft of proclainer vehicle. Petitioners herein, who are claiming to be the legal heirs of the deceased de facto complainant-Karri Venkata Reddy filed the impugned application under Section 457 of the Code of Criminal Procedure seeking to grant interim custody of the vehicle-Proclainer Tata Hitachi EX-200LC Hydraulic Excavator bearing machine Sl.No.H/06-2873-2290 seized in Crime No.55 of 2011 in C.C.No.272 of 2011. According to the petitioners, the deceased-Karri Venkata Reddy has purchased the said vehicle from one Ganta Siva Prasad under a sale deed dated 18.3.2008 by paying entire consideration. However, since there is a rival claim by fifth respondent-Shri Ram Transport Finance Co. Ltd., who is claiming that one Myneni Venkata Kanaka Vara Prasad availed finance on 21.6.2010 for a sum of Rs.5.50 lakhs against the said vehicle by executing a loan-cum-hypothecation agreement and as he failed to repay the said amount, sole Arbitrator at Visakhapatnam has passed an award in favour of this respondent. However, the said M.V.K.V. Prasad stealthily disposed of the said vehicle to deceased-Karri Venkata Reddy. In view of the said rival claim and dispute over the ownership of the

vehicle, the trial Court dismissed the impugned application.

As seen from the record, the very ownership of the vehicle is in question before the trial Court and the same can be decided by the trial Court after full-fledged trial. However, if the vehicle is kept idle and unused, no purpose would be served. Since the petitioners herein are seeking only interim custody of the vehicle, this court is inclined to grant interim custody with certain conditions.

Considering these circumstances, it is directed that vehicle i.e. Proclainer Tata Hitachi EX-200LC Hydraulic Excavator bearing machine SI.No.H/06-2873-2290, shall be released for interim custody of the petitioners, subject to final orders to be passed at the time of disposal of the main case, on their executing a personal bond for Rs.8,00,000/- (Rupees eight lakhs only) with one surety for the like sum to the satisfaction of the Judicial Magistrate of First Class, Narsipatnam, and also on production of original R.C. book. It is further directed that the petitioners shall given 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.

Accordingly, the Criminal Revision Case is disposed of. Miscellaneous petitions filed in this revision, if any, shall stand closed.

JUSTICE RAJA ELANGO

23.11.2015

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THE HONOURABLE SRI JUSTICE RAJA ELANGO

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CRIMINAL REVISION CASE No.2186 OF 2015

DATED 8th October, 2015.

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