

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.2248 of 2015

ORDER:

In this petition filed under Section 482 Cr.P.C, the petitioner challenges the order dated 23.02.2015 in CrI.M.P.No.145 of 2015 in Crime No.245 of 2014 passed by learned XXIII Metropolitan Magistrate, Cyberabad, at Rajendranagar whereunder learned Magistrate dismissed the petition filed by the petitioner under Sec.457 Cr.P.C to order for release of Innova Vehicle bearing Registration No.AP 15 AD 6325.

2) In Crime No.245 of 2014, the Police of Narsing P.S laid charge-sheet against A.1 to A.5 for the offences under Sec.397 IPC. The allegations are that A.1 and A.2 are distant relations and A.3 to A.5 are friends and all of them conspired together to commit property offences from the passengers and as per their plan on 12.06.2014, A.3 took Innova Car bearing No.AP 15 AD 6325 on hire basis for Rs.2000/- per day and then all of them reached P.V. Narsimha Rao express fly-over at Mehdipatnam at about 10:00pm and when the *defacto* complainant was waiting for vehicle to go to his residence at Shamshabad, they got him into the vehicle and proceeded on the P.V.Narsimha Rao Express fly-over and on the way they asked his cellphone but the *defacto* complainant refused to give his cell phone and so they threatened him with dire consequences by showing knives and took his cell phone and they also robbed his gold chain and gold ring and then took him upto Chandrayangutta and from there they proceeded to different places and ultimately thrown the *defacto* complainant out of the vehicle and fled away. Later the Police nabbed the accused and recovered the property and the vehicle.

3) The petitioner filed CrI.M.P.No.145 of 2015 in Crime No.245 of 2014 before the XXIII Metropolitan Magistrate, Cyberabad at Rajendranagar for release of the vehicle claiming as its owner.

Learned Magistrate dismissed the petition on two main grounds. Firstly that charge sheet and investigation shows that owner of the crime vehicle is one Mohd. Tausweefuddin (LW.4 in the list of witnesses) whereas the R.C shows the petitioner—Mohd. Hameeduddin as its owner and so there is a dispute regarding ownership and in the affidavit of the petitioner he has not clarified that issue. Secondly, on the ground that the petitioner has not clarified how the vehicle which allegedly belonged to the petitioner was seized from the accused.

Hence the instant petition.

4) Heard.

5) So far as the first observation of the learned Magistrate is concerned, it is true that in the charge sheet LW.4 is referred as owner of the crime vehicle whereas the copy of R.C shows the petitioner as owner. Since the R.C particulars shows the petitioner's name, he can be believed as owner of the vehicle though he could not explain why the Police have mentioned the name of Mohd. Tausweefuddin (LW.4) as owner of the vehicle.

6) Then the second observation is concerned, as rightly pointed out by learned Magistrate, the petitioner owes a responsibility to explain as to how his vehicle was used for committing dacoity by the accused. It is his duty to say how and when his vehicle was taken on hire either by the accused or some other person so as to commit the dacoity. Further, there is no explanation from the petitioner as to whether he engaged a regular driver to his vehicle and if so why he was not driving the vehicle at the relevant time of the incident. So in spite of the fact that the R.C book shows the petitioner's name as owner, still the petitioner could not properly justify showing that he was innocent and his vehicle was used for committing dacoity without his concern and knowledge. These aspects have to be clarified only after a regular trial in the case. In these circumstances, since a cloud is cast over the conduct of the petitioner, it is not apt to release the vehicle to him. Learned Magistrate rightly turned down

his request and I find no illegality in it.

7) In the result, this Criminal Petition is dismissed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 02.04.2015

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