

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No. 328 of 2015

JUDGMENT:-

The present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C. questioning the order dated 06.01.2015 passed in CrI.M.P.No.13 of 2015 on the file of III Additional Judicial Magistrate of First Class at Kothagudem.

The case of the prosecution is as under:

While making efforts to arrest A.6 and A.7 in connection with Crime No.268 of 2014 of Palvantha Rural Police Station, Khammam District, registered for the offences punishable under Sections 447, 379 IPC and Section 3 of P.D.P.P. Act, the informant and his staff rushed to Peddammathalli temple at Jagannadhapuram village and arrested A.7. On interrogation A.7 disclosed his name as Tellaboina Upendher @ Upendra (petitioner herein). He confessed that he is the owner of crime vehicle i.e., JCB bearing registration No.AP 20AR 5802 and eking out his livelihood by giving the same to the required persons on rent. He further confessed that himself and his driver (A.6) and vehicle were involved in the commission of the offence. The police seized the said vehicle and arrested the petitioner.

Pending investigation, the petitioner filed an application under Section 457 Cr.P.C. seeking interim custody of the crime vehicle vide CrI.M.P.No.13 of 2015 on the file of the III Additional Judicial Magistrate of First Class, Kothagudem, which was rejected on the ground that the vehicle was involved in another crime. Challenging the same, the present revision is preferred.

Learned counsel for the petitioner submits that he is the owner of the crime vehicle and is eking out his livelihood by giving the same to the required persons on rent. He further submits that there is every possibility of the vehicle getting damaged, if it is kept idle in the police

station.

Learned Additional Public Prosecutor opposed the application, but did not dispute the ownership of the vehicle.

In ***Surenderbhai Ambalal Desai v. State of Gujarat***^[1], 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 JCB bearing registration No.AP 20AR 5802 seized in Crime No.268 of 2014 of Palvancha Rural Police Station, Khammam District, in favour of the petitioner on the following terms.

- i) The petitioner shall execute a personal bond for Rs.3,00,000/- (Rupees three lakhs only) with one surety for a like sum to the satisfaction of the III Additional Judicial Magistrate of First Class at Kothagudem.
- 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 either by the Investigating Agency or the Court and also give an undertaking not to alienate, encumber or alter the physical features of the vehicle.

Accordingly, the Criminal Revision Case is allowed.

C. PRAVEEN KUMAR, J

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[\[1\]](#) (2002) 10 SCC 283