

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.16343 of 2016

ORDER

This petition under Section 482 Cr.P.C., is filed to set aside the order dated 07.09.2016 passed in Crl.R.P.No.50 of 2016 by the learned VIII Additional District and Sessions Judge at Medak, whereunder the learned Sessions Judge directed the Magistrate concerned to return the tractor bearing No.AP 23 Y 8078 to the second respondent herein by imposing certain conditions.

2. Petitioner herein is a non-banking financial institution which lent amount on hire purchase basis to purchase the vehicle by second respondent. The second respondent availed financial facility to the tune of Rs.4,25,150/- and purchased the tractor bearing No.AP 23 Y 8078 and thereafter, committed default in payment of instalments as agreed under the agreement. Therefore, in terms of agreement, the petitioner is entitled to recover the possession of said tractor under hypothecation agreement XVFPHYF00000248573 dated 19.02.2008. It is stated that as the said vehicle was involved in Cr.No.101 of 2016 of Hathnoora Police Station, Medak District, for the offence punishable under Section 379 IPC and under Section 25/35 of WALTA Act, it was seized and produced before the Judicial Magistrate of First Class, Narsapur. While so, the second respondent filed Crl.M.P.No.1148 of 2016 in Cr.No.101 of 2016 on the file of Judicial Magistrate of First Class, Narsapur, for return of the said vehicle and the same was dismissed on 15.07.2016. Challenging the same, the second respondent filed Crl.R.P.No.50 of 2016 before the VIII Additional District and Sessions Judge at

Medak, and by order impugned, the said revision was allowed setting aside the order dated 15.07.2016 in Crl.M.P.No.1148 of 2016 in Cr.No.101 of 2016 by imposing general conditions for delivery of vehicle to the second respondent. This criminal petition is filed claiming possession of said vehicle on the ground that the second respondent committed default in payment of monthly instalments of loan amount and in terms of the agreement, petitioner is entitled to repossess the vehicle and sell the same for regularisation of the account due to it.

3. If, for any reason, the possession of vehicle is given to petitioner, the next option left open to it is to sell the vehicle, and in such case, it is difficult for the trial Court to proceed with trial in the absence of said vehicle. In those circumstances, the petitioner cannot be permitted to repossess the vehicle. It is settled law that this Court can exercise jurisdiction only in exceptional circumstances. If the petitioner is permitted to repossess the vehicle by passing order, it would be difficult to the prosecuting agency to prove its case before the trial Court. Hence, I am not inclined to issue any direction to the Magistrate concerned to return the vehicle to petitioner as it was already given possession to the second respondent.

4. Hence, the Criminal Petition is dismissed at the stage of admission. However, the petitioner is at liberty to file application before the trial Court after completion of trial, and on filing such application, the Magistrate concerned is directed to pass appropriate

order under Section 354 Cr.P.C. Miscellaneous petitions, if any,
pending in this criminal petition shall stand dismissed.

M. SATYANARAYANA MURTHY, J

28th November, 2016

sj

