

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL PETITION No.10641 of 2016

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. to direct the respondents 2 and 3 to grant interim custody of the vehicle bearing registered No.AP 31 TV 8490 belonging to the petitioner which was seized in OR No.4/2016-17 on the file of the 2nd respondent, in pursuance to the orders passed in CrI.M.P.No.925 of 2016 dated 23.06.2016 by the Judicial Magistrate of First Class, Rampachodavaram, East Godavari District.

2. Heard the learned counsel appearing for the petitioner/A1 and the learned Additional Public Prosecutor, representing the State.

3. This is a case where respondents 2 and 3 are attempting to flout the orders of the jurisdictional magistrate with impunity, which cannot be countenanced. The vehicle bearing registration No.AP 31 TV 8490 said to have been owned by the petitioner/A1 was seized by the 2nd respondent on the allegation of carrying Indian Soft Shelled Turtles and a case was registered for the offences punishable under Sections 9, 39(1)(d), 48A and 51 of the Wild Life Protection Act, 1972 read with Section 20(1)(c)(ii)(viii) & 20(1)(3)(ii) of the A.P.Forest Act.

4. The petitioner/A1, claiming himself to be the owner of the vehicle, filed an application under Section 457 of Cr.P.C. before the Judicial First Class Magistrate, Rampachodavaram, East Godavari District seeking interim custody of the seized vehicle. After recording satisfaction, the learned Magistrate, by order dated 23.06.2016, ordered release of vehicle in favour of the petitioner/A1 on certain conditions. The said conditions have been complied with by the petitioner/A1 and the learned Magistrate, having been satisfied with the compliance of the conditions imposed, issued an official

memorandum dated 24.06.2016 directing the 2nd respondent/Forest Range Officer to return the crime vehicle to the petitioner/A1. The said Official Memorandum issued by the learned Magistrate in pursuance of the judicial order passed by him, has not been implemented by the respondents and it is represented that since a revision has been filed, they do not intend to comply the orders of the Magistrate.

5. This act of the respondents is clearly a gross abuse of law and would clearly attract the provisions of contempt of Court Act for not having implemented the orders of the Court, even though the same has not been suspended or stayed by the competent superior Court. Though the respondents can challenge the order of the learned Magistrate before the competent superior Court, but so long as the orders of the Magistrate are not suspended or stayed or modified, the authorities cannot flout the said order saying that they have preferred a Criminal Revision Case before the District & Sessions Judge, East Godavari District, challenging the order of the learned Magistrate contending that the order of the learned Magistrate is arbitrary, unlawful and perverse.

6. Accordingly, the respondents are hereby directed to immediately comply with the order dated 23.06.2016 passed by the learned Judicial Magistrate of First Class, Rampachodavaram, East Godavari District. It is needless to state that the respondent authorities are at liberty to prefer revision challenging the order of the Magistrate and if at all the orders of the learned Magistrate are suspended, stayed or modified by the revisional Court, the authorities should oblige the same.

With these observations, the Criminal Petition is disposed of.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL, J

28th July, 2016
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