

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.1873 of 2016

ORDER:-

The present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C. aggrieved by the docket order, dated 06.06.2016, in CrI.M.P.No.1065 of 2016 in Crime No.176 of 2016 passed by the Judicial Magistrate of First Class, Dharmavaram.

2. The allegation against the petitioner is that he was transporting PDS rice in the vehicle i.e., Mahendra Bolero Maxi Truck Plus bearing registration No.AP-02-TC-0934, which attract the provisions of the E.C. Act. Police seized the said vehicle and registered a case in Crime No.176 of 2016 of Dharmavaram Town Police Station for the offences punishable under Sections 420 and 406 read with 34 IPC. During course of interrogation, the accused confessed that he sold the said vehicle to D.Bhaskar Naik, who is A.1 in the present crime. During pendency of investigation, the petitioner claiming himself to be the owner of vehicle i.e., Mahendra Bolero Maxi Truck Plus bearing registration No.AP-02-TC-0934, filed CrI.M.P.No.1065 of 2016 in Crime No.176 of 2016 before Judicial Magistrate of First Class, Dharmavaram, seeking interim custody of the said vehicle. By an order dated 06.06.2016, the learned Magistrate dismissed the application. Challenging the same the present revision is filed.

3. Learned counsel for the petitioner mainly submits that there is every possibility of the vehicle getting damaged, if it is kept exposed to air, sun and rain at the police station premises and hence seeks interim custody of the vehicle. Learned Additional Public Prosecutor though opposed the revision, did not dispute the ownership of the vehicle.

4. Pending the said revision, the petitioner filed CrI.R.C.M.P.No.3032 of 2016 to implead Sri D.Bhaskar Naik as

second respondent. Mr.M.Kari Basavaiah, Advocate, who filed vakalat on behalf of respondent No.2, submits that he has no objection for release of vehicle in favour of the petitioner.

5. 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.

6. Since there is no dispute with regard to the ownership of the vehicle and as the question of confiscation, if any, arises after a full-fledged trial 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 vehicle i.e., Mahendra Bolero Maxi Truck Plus bearing registration No.AP-02-TC-0934 seized in Crime No.176 of 2016 of Dharmavaram Town Police Station in favour of the petitioner on the following terms.

- i) The petitioner shall execute a personal bond for Rs.2,00,000/- (Rupees two lakhs only) with one surety for a like sum to the satisfaction of the Judicial Magistrate of First Class, Dharmavaram.
- ii) The petitioner shall deposit the original Registration Certificate of the vehicle in the Court. However, the trial Court shall issue a certified copy of the registration certificate to the petitioner so that no inconvenience is caused to him while using the vehicle.
- 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 that he will not alienate, encumber or alter the physical features of the vehicles.

7. Accordingly, the Criminal Revision Case is disposed of.

Consequently, miscellaneous petitions, if any, pending shall stand closed.

C. PRAVEEN KUMAR, J

AUGUST 11.08.2016
YVL

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