

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

Criminal Petition No.6267 of 2016

ORDER:

The petitioner – hypothecated owner of the crime vehicle filed this Criminal Petition under Sections 482 Cr.P.C. praying to set aside the order, dated 04-03-2016 in CrI.M.P.No.4503 of 2015 on the file of the Court of the Judicial Magistrate of I Class, Kanigiri, Prakasam District arising out of Crime No.31 of 2012 on the file of the Veligandla Police Station, Prakasam District and release the vehicle TATA DCM Mini Lorry bearing registered No. AP 27 TU 0583, which is in the custody of the Veligandla Police Station, Prakasam District, in favour of the petitioner.

Heard and perused the records.

Learned counsel for the petitioner – hypothecated owner submits that the petitioner is a financier who has financed the Respondent No.4 herein for purchase of the vehicle. The contention of the petitioner is that respondent No.4 - the registered owner, who has purchased the crime vehicle by obtaining loan, has no interest in the custody of the vehicle and he has committed default of payment of instalments from December, 2013. Therefore, the petitioner, being the financier is interested in the custody of the vehicle. The learned counsel for the petitioner further submits that if the vehicle is kept idle for a long period, there is every possibility of getting it damaged and that the petitioner is ready to produce the vehicle as and when required by the Court below.

The learned counsel for the petitioner is also relied upon

the order, dated 04-12-2013 passed by this Court in Crl.R.C.No.2319 of 2013 and the order, dated 02-09-2014 passed by this Court in Crl.R.C.No.1418 of 2014 in support of his contentions.

The notice of the petitioner has been served on the Respondent Nos.3 and 4, but there is no representation on their behalf.

Learned Additional Public Prosecutor also submitted that interim custody of the crime vehicle can be granted to the petitioner by imposing certain conditions.

Considering these circumstances, it is directed that vehicle i.e., TATA DCM Mini Lorry bearing registered No. AP 27 TU 0583 shall be released for interim custody of the petitioner, subject to final orders to be passed in the criminal case in connection with the above crime, on his filing bank guarantee for a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) to the satisfaction of the trial court and also on production of original R.C. book. It is further directed that the petitioner shall not alienate the vehicle, shall not change the physical features of the same till the disposal of the criminal case and further he shall undertake to produce the vehicle as and when required by the Court below. However, it is made clear that the present order will not stand in the way of confiscation proceedings, if any, already passed. Further, this order does not preclude the authorities from passing any confiscation proceedings.

Accordingly, the Criminal Petition is disposed of. Miscellaneous petitions filed, if any, shall stand closed.

JUSTICE M.S.K.JAISWAL

Date : 30.08.2016

skmr