

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.2044 of 2016

ORDER:-

The present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C. questioning the order, dated 27.07.2016, passed in CrI.M.P.No.32 of 2016 in Crime No.97 of 2016 on the file of Special Judicial Magistrate of Second Class, Pithapuram.

2. The case of the prosecution is that on 12.07.2016, while conducting vehicle check at Vajrakutum Centre, Gollaprolu Mandal, police seized two lorries and one Eicher van bearing No.AP-29-TB-7320, while they were transporting 31 young buffalos from Kothavalasa to Vijayawada and arrested the accused on the same day under the cover of mediators report and registered a case in Crime No.97 of 2016 for the offence punishable under Section 11 (1), 11 (a), 11 (d), 11 (e), 11(f), (h), (j), (k) of the PCA Act and Section 47 (b) and 50 of the Animal Transportation Rules. During pendency of investigation, the petitioner claiming himself to be the owner of vehicle i.e., Eicher van bearing No.AP-29-TB-7320 filed CrI.M.P.No.32 of 2016 in Crime No.97 of 2016 before Special Judicial Magistrate of Second Class, Pithapuram, seeking interim custody of the said vehicle. By an order dated 27.07.2016, 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 they are 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. 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.

5. Since there is no dispute with regard to the ownership of the vehicle; 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., Eicher van bearing No.AP-29-TB-7320 seized in Crime No. 97 of 2016 of Gollaprolu 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 two sureties for a like sum to the satisfaction of the Special Judicial Magistrate of Second Class, Pithapuram, East Godavari District.
- 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.

6. Accordingly, the Criminal Revision Case is disposed of. Consequently, miscellaneous petitions, if any, pending shall stand closed.

C. PRAVEEN KUMAR, J

AUGUST 12.08.2016
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[\[1\]](#) (2002) 10 SCC 283