

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.15431 OF 2016

ORDER:

This Criminal Petition is filed under Section 482 of Cr.P.C. to quash the order dated 30-9-2016 in Cr1.M.P.No.128 of 2016 (in Crime No.70 of 2016 of Gajulamandyam Police Station) on the file of II Special Judicial Magistrate of II Class, Tirupati, Chittoor District and for release of forty seven buffaloes to the petitioner for interim custody .

Petitioner claiming to be the owner of the buffaloes filed present petition which is the subject matter in Crime No.70 of 2016 for the offences punishable under Sections 5, 6, 10, 11 and 12 of A.P. Prohibition of Cow Slaughter and Animal Preservation Act, 1977 and under Section 11 (d) of A.P. Prevention of Cruelty to Animals Act,1960, against the accused in the above crime basing on the complaint lodged by K.Narasimha Rao against petitioner alleged owner herein alleging that while the forty seven buffaloes were transporting on 2-9-2016 for slaughtering purpose, they were stopped at R.T.O.check Post, on seeing them, driver and cleaner of the lorry, they went away from that place, leaving the lorry and animals and the matter was reported to the police and police seized 47 buffaloes involved in the crime, registered crime and issued F.I.R.No.70 of 2016 for the above offences.

The contention of the petitioner is that he never intended to sell the same at slaughter Centre and the above 47 buffaloes were

never involved in any crime and police seized them and that the petitioner required those buffaloes immediately and sought for release of those buffaloes.

It is further contended that he purchased 47 buffaloes at Agricultural Market Committee, Nujiveedu by paying Rs.2,500/- per buffalo under receipt No.16476 Book No.330 and thereby, he became the owner and transporting the animals for agricultural purpose, as he received advance from various farmers around his native place for supplying buffaloes for agricultural purpose and that the buffaloes are not in safe custody for the present and in case they are allowed to keep in the custody of Grameena Vikas Samithi, they would not have any food and water, the buffaloes will be put to starvation and in case of time, they will become unfit for agricultural operation and hence, the buffaloes are required to be released.

Petitioner counsel reiterating the said contentions submitted that the petitioner is the owner of forty seven buffaloes having purchased the same from agricultural market committee to supply the same to agriculturists in the native village of the petitioner and other neighbouring villages as he received huge amount from them as advance.

Whereas Public Prosecutor opposed the petition on the ground that buffaloes were shifted only for slaughtering purpose and it is prohibited under the Act referred supra and in case the bulls are released, petitioner will shift those bulls to slaughtering centre which

is nothing but a contravention of provisions of the Act referred above and it is prohibited by Act and hence, he requested this court to send the buffaloes to Grameena Vikas Samithi for safe custody during pendency of the Criminal case.

It is also brought to the notice of this court that in the order passed by this court in Crl.P.No.12710 of 2016 dated 28-9-2016, it was ordered to maintain status quo, existing as on that day by the parties and basing on the above judgment by the apex court he requested this court to dismiss the petition denying temporary custody of 47 buffaloes.

It is not the case of petitioner that he is carrying on business but curiously he purchased forty seven buffaloes for his agricultural purpose and did not produce a piece of paper to establish that he possessed agricultural land or he took advance from any of the ryots of neighbouring villages or from his village for supply of those buffaloes for agriculture purpose. The contention that he obtained advance from various ryots is not supported by any evidence. But seizure of buffaloes along with vehicle while transporting in lorry is not denied. In usual course, no agriculturist would purchase forty seven buffaloes for agricultural purpose in normal course but he required forty seven buffaloes even without producing any piece of paper to establish that he is an agriculturist and in such a case, it is highly difficult to believe his contention that he is selling buffaloes

for agricultural purpose or supplying buffaloes to different ryots in the village.

The other contention before this court is that if the buffaloes were entrusted to interim custody to Grameena Vikas Samithi, grass and water etc., are not provided to the buffaloes and they are subjected to starvation but this contention is without any evidence brought on record.

The main apprehension of the prosecution is that in case buffaloes are released, it is difficult for the prosecution to secure the presence of those buffaloes during trial.

Learned counsel for the petitioner contended that in the earlier order passed in Criminal Petition No.12710 of 2016, this court by following the judgment of *MOHAMMAD SHAFT Vs. STATE OF A.P.* (¹) ordered for release of animals subject to furnishing security for Rs.3,00,000/- but unfortunately, this order was not upheld by the Honourable Supreme Court in Petition for Special Leave to Appeal (Crl.)...CRLMP No.17788 OF 2016, directed the parties to maintain status-quo. Therefore, in view of the order passed by the apex court, the order passed by this court on 28-9-2016 in Crl.P.No.12710 of 2016 need not be followed.

One of the contentions of the prosecution is that buffaloes are not put to any starvation and they are provided with grass and other material for its sustenance, in such a case, if any bull died due to

¹ 2006(2) ALT (Crl.) 326 (AP)

starvation, certainly, the Government will be responsible for such death and has to compensate and even if interim custody is granted it is difficult to secure the presence of those buffaloes despite imposing any conditions from transferring those buffaloes etc.,

Hence, I find no ground to grant interim custody by following order in Petition for Special Leave to Appeal (Crl.)...CRLMP No.17788 OF 2016 and consequently, this Criminal Petition is liable to be dismissed.

Accordingly, this Criminal Petition is dismissed.

As a sequel to the disposal of this petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.



JUSTICE M.SATYANARAYANA MURTHY

Dated 3-11-2016.

Dvs.

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Dated 3-11-2016.

Dvs