

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CRIMINAL REVISION CASE No. 2055 of 2015

ORDER:

The present Revision is filed under Sections 397 and 401 of the Code of Criminal Procedure (for short "Cr.P.C."), aggrieved by the order dated 30.06.2015 in CrI.M.P. No.881 of 2015 in Crime No.206 of 2014 on the file of the VIII Additional Chief Metropolitan Magistrate at Hyderabad, wherein an application filed under Sections 451 read with 457 Cr.P.C., was allowed.

2. The facts, which lead to filing of the present Revision, are as under :

One Javeed Ahmed lodged a report, which lead to registration of Crime No.206 of 2014 of Reinbazar Police Station, Hyderabad, against one Musaib for the offences punishable under Sections 420 and 468 of the Indian Penal Code (for short "IPC"). Investigation done by the police discloses that A-1 therein i.e., Syed Musaib Ahmed @ Musaib was running a mobile shop-cum-four wheeler dealings in a shop situated at Jagadish Market, Abids. A-1 came into contact with A-3, who was working as an agent through A-2 and A-4, who used to create false and forged documents. About six months prior, they hatched a plan to create forged documents for four wheeler vehicles and sell them to others. In the month of August 2014, A-1 took a Innova Car from L.W.1, who is a known person to him, stating that they need the vehicle as they are going out of State and in turn kept one Swift Dezire car with him as surety. Thereafter, A-1 to A-4 are alleged to have prepared fake and forged documents of the Innova car, Election voter ID card in the name of A-1 and sold and transferred the same to L.W.2-Mohd. Ameer Siddique on 06.09.2014 by submitting forged documents. The accused are alleged to have collected a sum of Rs.4,00,000/- from L.W.2. They further planned to prepare forged documents of a Swift Car bearing No.A.P.29-BD-4133 which was brought by A-2 from his relatives by stating that there was a marriage function. The acts of accused in trying to create fake documents and

selling the same to others, is subject matter of dispute in Crime No.206 of 2014. While things stood thus, L.W.2-Mohd. Amir Siddique filed an application for return of Innova vehicle for interim custody. According to him, he is the owner and purchaser of Innova Car bearing No.A.P.12-E-7542 from one Javeed through A-1 to A-3 and his name was also registered as the owner of the vehicle. He also placed on record a complaint filed by him vide C.C. No.783 of 2014 against Javeed and five others for the offences punishable under Sections 420, 500 and 506 read with 34 IPC. He placed reliance on the certificate issued by Road Transport Authority to the effect that he is the owner of the said vehicle.

3. A counter came to be filed by the respondents therein opposing the application on the ground that investigation in both the cases are still pending and it is too premature to decide the ownership of the vehicle.

4. The learned Additional Public Prosecutor also filed a counter stating that the petition itself is not maintainable since the investigation is still pending in Crime No.206 of 2014.

5. After perusing the material on record the trial court allowed the Crl.M.P. directing the police, in whose custody the property is, to handover the same to the petitioner therein for interim custody till further orders on certain terms and conditions. Challenging the same, the present Revision is filed.

6. It is to be noted that second respondent herein filed a private complaint against Javeed(L.W.1 in Crime No.206 of 2014) which was taken on file as C.C. No.783 of 2014 on the file of VIII Additional Chief Metropolitan Magistrate at Hyderabad. In the said case the second respondent herein filed Crl.M.P. No.3211 of 2014. During the hearing of the said application, both the parties filed Registration Certificates (R.Cs.) of the vehicle, which were said to have been issued in their respective names. Left with no other option, the VIII Additional Chief Metropolitan Magistrate issued a notice to the Road Transport Authority, Bahadurpura to decide as to which is the original R.C. book and which one is the

duplicate. The Administrative Officer of R.T.A., Bahadurpura, appeared before the Court and after verifying the same stated that the R.C. book produced by the second respondent herein is the original, whereas the R.C. book produced by the petitioner herein is duplicate one. It has also been placed on record that the second respondent herein filed an affidavit in the office of R.T.O. on 10.09.2013 itself along with certificate issued by Miyapur, Road Transport Authority stating that he lost his original R.C. and requested to issue duplicate R.C. After considering the report of the R.T.A., Bahadurpura and also the material placed before the said Court, the learned VIII Additional Chief Metropolitan Magistrate, Hyderabad passed the following order :

“On considering the statement of the witness who is the authority on the disputed aspect between the parties so also considering the copies of relevant record submitted by the witness I am of the opinion that the present owner of the disputed vehicle is the petitioner herein and not R1. But R1 suppressing the said facts obtained interim custody of the vehicle in CrI.M.P. No.127/15 in Cr.No.206/2014 of P.S., Rein Bazar which is not in accordance with law and as such he is under the obligation to return the vehicle forthwith and if he got any claim with regard to the vehicle he can approach civil court concerned if he so advised for declaration of his title over the vehicle but from the record available before this Court he is not entitled for the interim custody of the disputed vehicle. Accordingly this point is answered.

In the result, this petition is allowed and R1 is directed to hand over the Innova Car bearing No.AP-12-E-7542 in P.S., Rein Bazar immediately. The learned counsel for R-1 requested for 3 days time to surrender the vehicle and to that effect R-1 filed an undertaking affidavit to surrender the vehicle before 5.00 p.m., on 19.04.2015 stating that now the vehicle is not with R1 and it is away from the city. Considering his request and recording the undertaking affidavit of R-1 he is directed to surrender the vehicle before the S.H.O., P.S., Reinbazar on or before 19.04.2015 before 5.00 p.m., and submit compliance report on 20.04.2015 before this Court. The Office is directed to forward a copy of this order to the S.H.O., P.S., Rein Bazar with a direction to receive the vehicle and keep the same in safe custody until further orders by this Court and to file a memo to that effect on 20.04.2015. Matter is posted to 20.04.2015 for compliance report.”

7. The above order came to be passed on 16.04.2015. Thereafter, the impugned order came to be passed granting interim custody of the very same vehicle in favour of the second respondent herein in Crime No.206 of 2014 registered against Syed Musaib Ahmed and others.

8. A perusal of the record and the documents filed along with petitioner would show that the statement of the Administrative Officer of R.T.O. Office, Hyderabad, must have weighed to decide as to who the owner of the vehicle was, since both the parties produced R.C. books. It is to be noted that investigation in both the crimes is still pending. The statement of Administrative Officer, R.T.O., Office *prima-facie* shows that the Innova vehicle is in the name of second respondent but not in the name of the petitioner herein. The Court would normally grant interim custody of the vehicle to the person in whose name the R.C. book stands. Since the property is in the name of the second respondent herein, it cannot be said that the order under challenge suffers from any illegality or impropriety. Hence, at this stage, I see no ground to interfere with the impugned order.

9. Accordingly, the Criminal Revision Case is dismissed. As a sequel to it, miscellaneous petitions pending if any in this Criminal Revision, shall stand closed.

JUSTICE C.PRAVEEN KUMAR

Dt: 22.04.2016
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