

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.711 of 2016

ORDER :

This Criminal Revision Case is filed under Sections 397 and 401 of the Code of Criminal Procedure (Cr.P.C.), challenging the order dated 15.07.2015, passed in Crl.R.P.No.28 of 2015 on the file of the Metropolitan Sessions Judge, Cyberabad, Ranga Reddy District, L.B.Nagar wherein the order dated 11.02.2015 passed by VIII Metropolitan Magistrate, Cyberabad in Crl.M.P.No.195 of 2015 in Crime No.14 of 2015 of RGI Airport Police Station, Shamshabad, granting interim custody of cattle to respondent No.2 therein was set aside.

On 05.01.2016, this Court issued notices to the first respondent and directed the petitioner to take out personal notice to respondent No.1 by RPAD and file proof of service. Thereafter on 16.03.2016, this Court, after hearing both the parties and pursuant to an undertaking given by the learned counsel for the petitioner therein, directed the petitioner to produce all cattle to decide as to who is entitled for interim custody of the cattle, since a representation was made that some of the cattle which are in the custody of the petitioner are killed and sold and some are in bad condition.

Having regard to the said fact this Court directed the petitioner herein to produce all the cattle which were given to him pursuant to order in Crl.M.P.No.195 of 2015 in Cr.No.14 of 2015 of RGI Airport Police Station, before the first respondent-Goshala under the cover of panchanama. The first respondent herein was directed to verify and report back before this Court by 21.03.2016, as to whether the said order has been complied with or not. Thereafter, on

22.03.2016, learned counsel representing Mr.Gulam Rabbani, stated that the counsel for the petitioner is not available and sought time and hence the matter was directed to be posted on 28.03.2016.

Today, Md.Abdul Faheem, submits that Mr.Gulam Rabbani, who filed vakalat earlier has no right to file since the petitioner never gave such vakalat to him. He further submits that appropriate action may be initiated against the said counsel. Though Md. Abdul Faheem states that no cattle was received by the petitioner till date, but that does not appear to be the version in the counter filed before the trial court.

Having regard to the circumstances, it appears to be a case where the petitioner herein is trying to get over the situation since most of the cattle are either dead or sold and it is very difficult for them to comply with the undertaking given before the Court. The material on record, more particularly, the statement of the driver, which was recorded by the Court below would show that he was transporting the cattle for selling them to the slaughterhouse. Once the driver of the vehicle has stated that he was transporting the cattle for selling them to Bahadurpura Slaughter House, the trial Court ought not to have handed over the cattle in favour of petitioner, under Section 451 of Cr.P.C.

Having regard to the said facts and circumstances of the case and taking into consideration the judgment of the Apex Court in State of U.P. Vs. Mustakeem and others in Crl.A.No.283-287 of 2002 arising out of SLP No.2790 of 1999 and batch and the orders passed by this Court in Crl.R.C.No.1181 of 2010, dated 07.07.2010, I see no ground to interfere with the order passed by the trial Court.

Accordingly, the revision is dismissed.

As a sequel, Miscellaneous Petitions, if any, pending in this

revision shall stand closed.

JUSTICE C. PRAVEEN KUMAR

29.03.2016.
vnb