

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.15436 OF 2016

ORDER:

This Criminal Petition is filed under Section 482 of Cr.P.C. to quash the order dated 30-9-2016 in CrI.M.P.No.131 of 2016 (in Crime No.140 of 2016 of Renigunta Police Station) on the file of II Special Judicial Magistrate of II Class, Tirupati, Chittoor District and for release of forty bulls to the petitioner for interim custody .

Petitioner claiming to be the owner of the bulls filed present petition which is the subject matter in Crime No.140 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 Manikandan Raj against petitioner alleged owner herein alleging that while the petitioner is transporting 40 bulls on 18-8-2016 , 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 40 bulls involved in the crime, registered crime and issued F.I.R.No.140 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 40 bulls were never involved in any crime and police seized 40 bulls and that the

petitioner required those bulls immediately and sought for release of those 40 bulls.

It is further contended that he purchased 40 bulls at Agricultural Market Committee, Kotabommali by paying Rs.3000/- per bull under receipt No.33045 Book No.661 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 bulls for agricultural purpose and that the bulls 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 bulls will be put to starvation and in case of time, they will become unfit for agricultural operation and hence, the bulls are required to be released.

Petitioner counsel reiterating the said contentions submitted that the petitioner is the owner of forty bulls having purchased the same from agricultural market 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 bulls 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 bulls 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 40 bulls.

It is not the case of petitioner that he is carrying on business but curiously he purchased 40 bulls 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 bulls for agriculture purpose. The contention that he obtained advance from various ryots is not supported by any evidence. But seizure of bulls and vehicle while transporting in lorry is not denied. In usual course, no agriculturist would purchase 40 bulls for agricultural purpose in normal course but he required 40 bulls 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 bulls for agricultural purpose or supplying bulls to different ryots in the village.

The other contention before this court is that bulls were entrusted to interim custody to Grameena Vikas Samithi and grass and water

etc., are not provided to the bulls 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 bulls are released, it is difficult for the prosecution to secure the presence of those bulls 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 bulls 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 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 bulls despite imposing any conditions from transferring bulls etc.,

¹ 2006(2) ALT (Crl.) 326 (AP)

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.

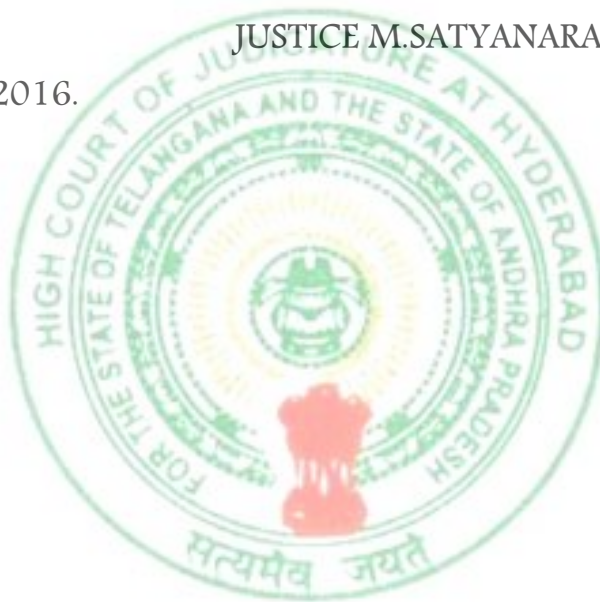
Accordingly, this Criminal Petition is dismissed.

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.



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Dated 3-11-2016.

Dvs