

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE Nos.1200, 1202, 1203, 1218
AND 1221 OF 2017

COMMON ORDER:

The CrI.R.C.No.1200 of 2017 is maintained by A.7, 1202 of 2017 by A.5, 1203 by A.1, 1218 by A.3 and 1221 by A.9 respectively of Cr.No.21 of 2017 of Gangavaram Police Station of Chittoor District. The crime registered on 26.02.2017 was for offences punishable u/ sec.379 IPC, Section 21(1) MMDR Act, and Section 35 of the A.P. WALTA Act, 2002 against 9 accused respectively. The gist of the accusation shows that on 26.02.2017 at about 5 P.M. at Betnur cross, on Gandrajupalli-Gundlapalli road of Gangavaram Mandal, the A.1 to A.9 of whom A.1 B.Shivappa is the owner and A.2 P.Venkatesh is driver of tractor bearing No.AP03 BY 1681, A.3 G.Manjunath, owner and A.4 G.Santhosh, driver of another tractor bearing No.AP03 BE 1688, A.5 C.Svasankar, owner and A.6 G.Subramanyam, driver of another tractor without registration number and A.7 G.Rathna Reddy, owner and A.8 G.Vijayakumar, driver of another tractor without registration Number and A.9 G.Chinnareddappa, owner-cum-driver of tractor bearing No.AP 03 BG 3208 and all except A.2 are residents of Marjepalli village, and A.2 is of Kotapalli village within Gangavaram Mandal without any permit or licence and illegally were transporting sand and were arrested and 5 tractors along with trailers with sand load were seized under cover of mediator panchanama in registering crime therefrom.

2. It is pending crime therefrom, 5 applications in CrI.M.P.No.233 of 2017 by A.7, 230 of 2017 by A.1, 231 of 2017 by A.3 and 232 of 2017 by A.5 and 234 of 2017 by A.9 under Section 457

CrPC, seeking interim custody of the respective tractors and trailers seized by police in the above crime. It is by respective separate orders of even date i.e. 06.04.2017, the learned Magistrate, Palamaner, allowed the petitions with conditions to execute respectively self bond for Rs.3 lakhs with one surety of likesum; also to pay penalty of one lakh prescribed by G.O.Ms.No.42, dated 29.03.2016 issued by the Industries and Commerce(Mines-II) Department; to undertake not to change its colour, nature and the shape and not to alienate the vehicles till further orders; to produce the vehicle as and when directed by the Court either before the Court or before the authorities of MMDR Act, or otherwise as the case may be; directed the SHO, subject to the above conditions, to release the vehicles for interim custody which is subject to final result of the case, under cover of delivery panchanama covered by photographs and under proper acknowledgment and identification of vehicles taking possession for interim custody of them from the police custody and to file before the Court the delivery panchanama and photographs along with acknowledgment of delivery without fail.

3.This part of the orders are impugned in the respective revisions and mainly of the condition to pay penalty of one lakh as per the G.O.Ms.No.42 to the authorities concerned under the MMDR Act and A.P.WALTA Act.

4. As a common question has arisen in all the revisions, all are taken up together for common disposal.

5. Heard the learned counsel for the respective petitioners and also the learned Public Prosecutor representing respondent-state and perused the material.

6. The petitioners relied upon the order of this Court in CrI.R.C.No.622 of 2017, dt.15.03.2017 saying so far as the imposition of penalty referring to G.O.Ms.No.42 supra by the learned Magistrate at the pre-trial stage for the interim custody of the vehicles concerned held unsustainable by leaving it to the authorities concerned if at all to impose penalty and with further direction of producing C-book of the vehicle respectively including as to its value to obtain bond and surety with necessary conditions subject to undertaking and in the event of failure without prejudice to other coercive steps, right to impose penalty u/ sec.53 IPC. So far as the other conditions covered by the impugned order of the learned Magistrate concerned, those no way required interference but for the direction to pay penalty of one lakh concerned. So far as the penalty concerned, it is prerogative of the authorities under the MMDR Act and WALTA Act pursuant to G.O.Ms. No.42 supra.

7. Having regard to the above and in the result, all the revisions are allowed in part by setting aside the order of the learned Magistrate to the extent of imposition of penalty pursuant to G.O.Ms. No.42 supra, for interim custody that too without trial. It is left open to the authorities concerned if at all to impose any penalty to collect if liable and on production thereof the SHO concerned shall release the vehicles on proof of payment of penalty if any imposed by the authorities and otherwise any certificate of not liable for penalty and it is made clear that the SHO to intimate the RTO concerned to cause enter in the original C-Book of the vehicles seized of its only a interim

custody and those cannot be alienated and transferred and any alienation is subject to orders of Court only.

Miscellaneous petitions if any pending in these revisions, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.01.06.2017
Vvr.

