

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

CRIMINAL REVISION CASE No.1808 of 2017

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, ('the Code', for brevity) is filed by the petitioner assailing the order, dated 12.06.2017, of the learned Judicial Magistrate of First Class, Markapur, Prakasam District, passed in CrI.M.P.No.5238 of 2017 (in Crime No.41 of 2017 of Peddaraveedu Police Station), filed under Section 457 (1) of the Code for return of the lorry bearing registration No.AP 21 TY 2292.

2. I have heard the submissions of Sri T.V.S.Prabhakar Rao, learned counsel for the petitioner, and of the learned Public Prosecutor for the State of Andhra Pradesh representing the sole respondent. The 2nd respondent in the proceedings before the trial Court is stated to be the respondent/accused. I have perused the material record.

3. The facts pleaded by the petitioner and the submissions made on his behalf, which are necessary for consideration, in brief, are as follows:-

The 2nd respondent/accused was said to have caused an accident and, therefore, a case in Crime No.41 of 2017 was registered against him, on 23.05.2017, by the Station House Officer, Peddaraveedu Police Station, for the offences punishable under Sections 304-II, 429 of IPC and Section 134 (a) & (b) read with Section 187 of the Motor Vehicles Act, 1988. During the course of investigation into the said crime, the afore-stated lorry was seized and the seizure is reported to the Court. The lorry is now lying at a place near the police station. The petitioner *inter alia* claiming to

be the owner of the said lorry filed the aforementioned miscellaneous petition before the trial Court along with the vehicular documents seeking interim custody of the said lorry. The trial Court, by the order impugned in this Criminal Revision Case, dismissed the said petition only on the ground that, as on that date, the lorry was not yet inspected by the Motor Vehicle Inspector and that the investigation is still pending. Therefore, the aggrieved petitioner is before this Court. As of now, the inspection of the vehicle by the Motor Vehicle Inspector is completed. If the lorry is kept in an open place near the police station by exposing it to rain and sun, it will get damaged and its value will deteriorate. The fact that the petitioner is the owner of the lorry is not in dispute. Hence, it is just and fair to grant interim custody of the lorry to the petitioner. The petitioner is prepared to abide by the conditions, which may be imposed by this Court while granting interim custody of the lorry to the petitioner.

4. The learned Public Prosecutor for the State of Andhra Pradesh representing the sole respondent also endorses the fact that the inspection of the lorry by the Motor Vehicle Inspector is already completed.

5. Having regard to the submissions and without expressing any views on the merits of the matter, this Court, at this stage, is satisfied that in the facts and circumstances of the case, the interim custody of the lorry can be given to the petitioner after imposing necessary conditions, as release of the seized vehicles by the Magistrates or the authority concerned is a rule and the rejection is an exception. Powers under Sections 451 and 457 of the Code, wherever and whenever exercisable, are to be properly and promptly exercised to see that vehicles are not kept for a long time, that

is, for more than fifteen days to one month at the police station or the Court house, in any case. Keeping any vehicle idle in an open place exposing it to Sun, Rain and inclement/rough Weather without any protection would lead to deterioration of its value and irreparable damage. Instead of allowing a vehicle to lie idle and rot in front of a police station or in the yard of a Court House, it is apposite to give interim custody of the vehicle to an eligible applicant as such a course helps not only in keeping the vehicle in the same good condition but also inures for the benefit of the ultimate successful party. There are no compelling reasons, in the case on hand, to not to pass an order giving interim custody of the lorry to the petitioner.

6. Accordingly, this Criminal Revision Case is allowed and the order, dated 12.06.2017, of the learned Judicial Magistrate of First Class, Markapur, Prakasam District, passed in CrI.M.P.No.5238 of 2017 [in Crime No.41 of 2017 of Peddaraveedu Police Station] is set aside and as a sequel, the said petition is allowed and the learned Magistrate is directed accordingly to give interim custody of the lorry bearing registration No. AP 21 TY 2292 (with the load of goods, if any) to the petitioner, on the petitioner executing a personal bond for a sum of Rs.3,50,000/- (Rupees three lakhs fifty thousand only) with two sureties in a like sum each to the satisfaction of the learned Magistrate and on the petitioner further undertaking that he will not alienate or transfer the lorry in any manner and will maintain it in the same good and road worthy condition without changing any of its features and major parts and will not take it out of the territorial limits of the States of Telangana and Andhra Pradesh and would

produce it along with vehicular documents at a specified place or before a specified authority as and when directed by the trial Court and would co-operate with the investigating agency and police at all times.

Miscellaneous petitions, if any, pending in this Criminal Revision Case, shall stand closed.

M.Seetharama Murthi, J

03rd July, 2017

Note:-

Furnish C.C. by 04.07.2017.

(B/O)

Bvv

