

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CRIMINAL REVISION CASE No.1246 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/A-14, having been partly aggrieved of the order, dated 18.10.2016, passed by the learned Principal Junior Civil Judge, Proddatur, holding Full Additional Charge of the post of the learned II Additional Judicial Magistrate of First Class, Proddatur, passed in CrI.M.P.No.1623 of 2016 in Crime No.169 of 2016 filed under Section 451 & 457 of the Code for return of the Tractor bearing No.AP04 TU 8164 and Trailer bearing No.AP04 TU 8163, for interim custody.

2. I have heard the submissions of Sri V.R. Reddy Kovvuri, learned counsel for the petitioner-A14, and of learned Public Prosecutor (AP) representing the 1st respondent-State. I have perused the material record.

3. The case of the petitioner is this: - 'He is the owner of the Trailer bearing registration No.AP 04 TU 8163. The said Trailer and Tractor afore-stated were seized from Accused no.7, who is the son of the petitioner-A14. On an application in CrI.MP.No.1623 of 2016, the trial Court while granting interim custody of Tractor afore-stated refused to grant interim custody of the Trailer as the chassis number of the Trailer did not tally with the chassis number mentioned in the vehicular documents though admittedly the Tractor and Trailer together were seized from the possession of accused no.7. In the facts and circumstances of the case, the order of the Court below refusing to grant interim custody of the Trailer is erroneous. The petitioner-A14 purchased the Trailer from its lawful owner; and at that time being an innocent purchaser he did not verify the correctness of the chassis number of the vehicle with the record. Admittedly there are no rival claimants. The interim custody of the

tractor was already granted. The Trailer, which is lying idle in the police station, is being exposed to Sun and Rain and is getting damaged. If the Trailer is allowed to remain like that its value will depreciate and it will become useless and the petitioner suffers serious loss. The petitioner-A14, who is seeking interim custody of the Trailer, is prepared to abide by any conditions which this Court may impose while granting interim custody of the same.'

4. Learned Public Prosecutor brings to the notice of the Court that the petition is filed by A14, who is the father of accused no.7, and that the Tractor and Trailer were seized from accused no.7 under a Panchanama. It is not in dispute that A7 is the son of A14 and that interim custody of the Tractor was already granted to the petitioner/A14. It is also not in dispute that there are no rival claimants.

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 Trailer as well can be given to the petitioner-A14 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 Section 451 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 Trailer to the petitioner.

6. Accordingly, the Criminal Revision Case is allowed and the Station House Officer, Rural Police Station, Proddatur, is directed to give interim custody of the Trailer bearing registration No. AP 04 TU 8163 to the petitioner on the petitioner executing a personal bond for a sum of Rs.4,00,000/- (Rupees four lakhs only) with one surety in a like sum to his satisfaction and on the petitioner further undertaking that he will not alienate or transfer the Trailer 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 its vehicular documents at a specified place or before a specified authority as and when directed by the Court and would co-operate with the investigating agency during the course of investigation. Before giving interim custody of the Trailer to the petitioner-A14, as per the orders of this Court, the police officer concerned shall arrange to take about four or five photographs of the same from different angles and preserve them as a part of the record of the crime.

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

07th June, 2017
Vjl

M. Seetharama Murti, J