

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

CRIMINAL REVISION CASE No.1556 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 docket order, dated 11.04.2017, of the learned Judicial Magistrate of First Class, Tandur, Ranga Reddy District, passed in CrI.M.P.No.144 of 2017 in Crime No.29 of 2017 of Basheerabad Police Station, filed under Section 451 of the Code requesting to grant interim custody of the tractor and trailer bearing registration nos. AP 28 DV 9743 and AP 28 TB 8115.

2. I have heard the submissions of Sri M.Parma Reddy, learned counsel for the petitioner, and of the learned Public Prosecutor for the State of Telangana representing the sole respondent. I have perused the material record.

3. The case of the petitioner and the submissions made on his behalf, in brief, are as follows:-

The police concerned registered the afore-stated crime against the petitioner for the offences punishable under Section 379 of IPC and Section 21(4) of the Mines and Minerals (Development and Regulation) Act, 1957. During the course of investigation, the above said tractor and trailer were seized and the said seizure is reported to the Court below and the said tractor and trailer are in the custody of the Court. After filing of the charge-sheet, C.C.No.158 of 2017 is taken on file by the learned Judicial Magistrate of First Class, Tandur, Ranga Reddy District. The tractor and trailer are involved in illegal transportation of sand, according to the case of the prosecution. While so, the petitioner filed the afore-stated Miscellaneous Petition under Section 451 of the Code seeking interim custody of the said tractor and trailer, *inter alia*

claiming that he is the owner of the said tractor and trailer. The trial Court refused to grant interim custody, having observed in its orders that the petitioner purchased the tractor and trailer from his wife and that the same shows that there is something fishy in the matter. The trial Court also observed in the impugned docket order that the offence committed by the petitioner is a second offence and that there are no grounds to release the vehicles. Aggrieved there of, the petitioner is before this Court.

4. The learned counsel for the petitioner would submit as follows:-

‘The petitioner is the owner of the tractor and trailer as per the provisions of the Motor Vehicles Act, 1988. The sale transaction is between the wife and husband and it is not prohibited by law. Therefore, the petitioner is entitled to have interim custody of the tractor and the trailer, which are admittedly seized from the possession of the petitioner.’

5. Per contra, the learned Public Prosecutor for the State of Telangana representing the respondent would submit that the subject tractor and trailer were used for illegal transportation of sand and that the present offence committed by the petitioner, according to the investigation, is a second offence.

6. 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 tractor and trailer 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 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 tractor and trailer to the petitioner.

7. Accordingly, this Criminal Revision Case is allowed and the docket order, dated 11.04.2017, of the learned Judicial Magistrate of First Class, Tandur, Ranga Reddy District, passed in CrI.M.P.No.144 of 2017 in Crime No.29 of 2017 of Basheerabad 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 tractor and trailer bearing registration Nos. AP 28 DV 9743 and No.AP 28 TB 8115 to the petitioner, on the petitioner executing a personal bond for a sum of Rs.50,000/- (Rupees 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 tractor and trailer in any manner and will maintain them in the same good and road worthy condition without changing any of their features and major parts and will not take them out of the territorial limits of the States of Telangana and Andhra Pradesh and would produce them 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. It is made clear that this order shall not preclude the authority(s) concerned from imposing any penalty as per the terms of G.O.Ms.No.15, dated 19.02.2015, or any other relevant G.O., if the said authority(s), in exercise of its jurisdiction, deems it

appropriate to impose any penalty having regard to the facts and circumstances of the case.

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

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M.Seetharama Murti, J

20<sup>th</sup> June, 2017

Note:-

Furnish C.C. by 27.06.2017.

(B/O)

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