

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CRIMINAL REVISION CASE No.616 of 2017

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, ('the Code', for brevity), by the petitioner, is directed against the order, dated 01.03.2017, of the learned Judicial Magistrate of First Class, Andole at Jogipet, Medak District, passed in CrI.M.P.No.261 of 2017 in Crime No.21 of 2017 of Papannapet Police Station, filed under Section 451 of the Code of requesting to grant interim custody of the tractor bearing registration No. AP 23 AH 5884 (hereinafter referred to as 'tractor').

2. I have heard the submissions of Sri P. Sriharinath, 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 introductory facts, in brief, are as follows:-

On a complaint lodged, a case in Crime No.21 of 2017, for the offences punishable under Sections 447, 379 of IPC and Section 21 (1) of the Mines and Minerals Act was registered by the Police, Papannapet, and investigation was taken up. During the course of investigation, the tractor was seized and was produced before the Court of the learned Judicial Magistrate of First Class, Andole at Jogipet, Medak District. Then, the petitioner filed the aforestated application for return/interim custody of the tractor expressing his readiness to abide by the conditions that may be imposed by the Court. After hearing the learned counsel for the petitioner and the learned Assistant Public Prosecutor, the Court below dismissed the application only on the ground that the tractor is a subject of hypothecation agreement and that the owner of the tractor is the financier and not the hirer. Aggrieved thereof, the petitioner is before this Court.

4. The learned counsel for the petitioner would submit that as per the definition of 'registered owner' under the provisions of the Motor Vehicles Act, 1988, and the ratio laid down in G.Jayachandra Naidu Vs. G.Lokamma and others¹, the petitioner is entitled to have interim custody of the tractor and that admittedly, the tractor was seized from the possession of the petitioner and hence also he is entitled to have interim custody of the same.

5. The learned Public Prosecutor for the State of Telangana would submit that the tractor was used for illegal transportation of sand.

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 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 to the petitioner.

¹ 2004 (1) ALT (CrI.) 352 (A.P.)

7. Accordingly, this Criminal Revision Case is allowed and the order, dated 01.03.2017, of the learned Judicial Magistrate of First Class, Andole at Jogipet, Medak District, passed in CrI.M.P.No.261 of 2017 in Crime No.21 of 2017 of Papannapet 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 bearing registration No. AP 23 AH 5884 to the petitioner on the petitioner executing a personal bond for a sum of Rs.35,000/- (Rupees thirty five 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 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.

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

M.Seetharama Murti, J

09th March, 2017

Note:-

Furnish C.C. by 10.03.2017

(B/O) Bvv