

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

Criminal Revision Case No.48 of 2017

JUDGMENT:

This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., challenging the order dated 06.12.2016 passed in CrI.M.P.No.4053 of 2016 in Cr.No.414 of 2015 on the file of the Special Mobile Judicial First Class Magistrate, Kakinada.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the first respondent (AP).

3. A perusal of the record reveals that the Sarpavaram police registered a case in Cr.No.414 of 2015 against the 2nd respondent for the offences punishable under Section 461 and 380 of IPC. The case of the petitioner is that the second respondent committed theft in the office of the petitioner. The petitioner, who is the *de facto* complainant, filed CrI.M.P.No.4053 of 2016 in Cr.No.414 of 2015 for return of the property. The trial court allowed the petition with the following conditions:

“In the result this petition is allowed and the petitioner *de facto* complainant/owner by name Shriram Transport Finance Company Limited, represented by its Senior Branch Manager, Karnati, Svanagaraja S/o Venkata Subbayya, Kakinada, who is owner of the above property items 1 to 18 and the same is directed to give interim custody of the petitioner on the following conditions.

1. Execute a personal bond by petitioner *de facto* complainant/ owner by name Shriram Transport Finance Company Limited, represented by its Senior Branch Manager, Karnati, Svanagaraja S/o Venkata Subbayya, Kakinada for Rs.20,00,000/-.

2. The petitioner/complainant is directed to furnish bank security for Rs.20,00,000/- in any Nationalized Bank by way of FDR in favour of Spl. Mobile J.F.C. Magistrate, Kakinada.

3. The petitioner/ *de facto* complainant is directed to file colour photographs of the property by clearly showing the articles are handing over to the petitioner for his interim custody.

4. The petitioner/ *de facto* complainant is directed to produce the said property items as and when directed by this court.

5. Police are directed to issue the said items 1 to 18 and cash of Rs.13,65,700/- on proper identification and acknowledgment received from petitioner/ *de facto* complainant/ owner by name Shriram Transport Finance Company Limited, represented by the Senior Branch Manager, Karnati, Svanagaraja S/o Venkata Subbayya, Kakinada;

6. Police are further directed to produce the personal bond, photos, along with CD, FDR and acknowledgment to this court".

4. The only grievance of the petitioner is that condition No.2 imposed by the trial court, which is onerous one, therefore the same may be modified. The trial court directed the petitioner to furnish bank security for Rs.20,00,000/- in any Nationalised Bank by way of F.D.R.

5. Having regard to the facts and circumstances of the case and also submissions made by the learned counsel for the petitioner, the condition No.2 is modified as follows:

The petitioner/ complainant is directed to furnish bank guarantee for Rs.20,00,000/- (Rupees twenty lakh only) in favour of Special Mobile Judicial First Class Magistrate, Kakinada, instead of furnishing bank security for Rs.20,00,000/- in any Nationalized Bank by way of FDR. The remaining conditions shall remain intact.

6. The criminal revision case is, accordingly, allowed. Miscellaneous petitions, if any pending in this case, shall stand closed.

T. SUNIL CHOWDARY, J

Date: 06.01.2017
BSS

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