

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL APPEAL NO.999 OF 2016

JUDGMENT:

Sri P.Vijaya Kumar – P.W.13 in S.C.No.85 of 2012 on the file of XIII Additional District and Sessions Judge, Visakhapatnam filed this appeal challenging the order of confiscating the Swift car bearing No.AP 31 AT 4193 marked as M.O.10 and its R.C. is marked as M.O.11.

The Sessions Judge after full-fledged trial found the accused not guilty and acquitted them, but ordered confiscation of M.O.10 – Swift Car bearing No.AP 31 AT 4193 to the State on the sole ground that the appellant herein testified before the Court that the said car was sold to the Reddy Cars and Cars in the year 2008 and obtained delivery letter from them.

Admittedly, the Swift Car bearing No.AP 31 AT 4193 was involved in the commission of the said crime, but none claimed ownership of the said car as on the date of pronouncing the judgment or even till today. The appellant contended that he was the original owner of the car, who sold the same to Reddy cars and cars in the year 2008 and the incident took place in the year 2010. Therefore, by the date of incident the appellant was no more owner of the said car and he is not entitled to claim any right over the car – M.O.10. When nobody claimed right over the property, the Court has no other alternative except to confiscate the property to the State in view of the power conferred on the Court under Section 452 of Cr.P.C.

Section 452 of Cr.P.C. reads as follows:

“452. Order for disposal of property at conclusion of trial.- (1) When an inquiry or trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal, by destruction, confiscation or delivery to any person claiming to be entitled to possession thereof or otherwise, of any property or document produced before it or in its custody, or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.”

Here, the car was allegedly used for commission of offence, but none claimed right over the property except the appellant herein after the conclusion of the trial before the Sessions Court. But the appellant himself admitted that the car was sold in the year 2008 i.e. two years prior to commission of offence and also obtained delivery letter from Reddy cars and cars, thereby he is not entitled to claim right over the property by setting aside the order of confiscation passed by the Sessions Judge exercising appellate jurisdiction. Hence, I find no ground to reverse the finding recorded by the trial Court with regard to confiscation of M.O.10 - Swift car bearing No.AP 31 AT 4193. Consequently, the appeal is liable to be dismissed.

In the result, the appeal is dismissed.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

16.02.2017
Ksp