

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Revision Case No.106 of 2017

ORDER:

Impugning the dismissal order of the learned II Addl.Judicial Magistrate of First Class, Huzurabad, dated 22.12.2016 in CrI.M.P. No. 1868 of 2016 in C.C.No.296 of 2016 (Cr.No.144 of 2016 of Veenavanka Police Station) for the offence punishable u/ sec.379 IPC, from the seizure of the tractor trailer of the petitioner/ A.2 bearing Nos.AP15TB 1968 and 1969 respectively, sought for return of the property, the revision is maintained.

The allegation against the petitioner is that there was commission of theft of sand in the vehicle supra by the petitioner along with some others from reach of the riverbed of Challur on 26.08.2016 that was caught hold of in the course of patrolling. No doubt, the vehicle of the petitioner earlier involved in C.C.No.1411 of 2015 of the same police station for similar offence for doing clandestine business to sell sand at higher rate for unlawful gain and the vehicle supra was released by the order of the learned Magistrate, Huzurabad supra on execution of a personal bond for Rs.1,50,000/- with one surety and it is pursuant to which by referring to it, for the second time committing similar offence covered by the impugned order, the petition was dismissed.

The contentions in the grounds of revision vis-à-vis the oral submissions of the learned counsel for the petitioner are that he is innocent and the vehicle is not involved in the above offence and the learned Magistrate ought to have ordered release of the vehicle, otherwise for non-utility and non-use, it will be exposed to sun and rain and will be rusted thereby sought for allowing the revision by ordering release of the vehicle.

It is the submission of the learned Public Prosecutor that if the vehicle is allowed to be released, he may commit another similar crime and thereby the vehicle cannot be ordered to be released but for to direct the lower Court if at all for speedy disposal of the C.C.No.296 of 2016.

Heard and perused the material on record.

Giving a direction for speedy disposal will not yield result and in the meantime the vehicle may not be in use, the tyres will be damaged and the body will be rusted and it will cause loss and the petitioner pleads innocence, no doubt, from the prosecution side it is second offence.

Having regard to the above, the revision is allowed by setting aside the dismissal order of the lower Court in CrI.M.P.No.1868 of 2016 in C.C.No.296 of 2016 dated 22.12.2016 and by remitting back the matter to the lower Court to obtain a personal bond for Rs.2,00,000/- (Rupees two lakhs only) along with two sureties for likesum each for due production of the vehicle and also to give an undertaking of not to allow the vehicle to be used by the petitioner or anybody again for transport of sand without any lawful permit and duly permitted by authorities and any violations if reported again, the learned Magistrate may by virtue of this order, call for handing over the vehicle book to its custody to pass appropriate orders on merits. Consequently, miscellaneous petitions, if any, pending shall stand closed.

Date:03.02.2017.
Vvr.

Dr. B.SIVA SANKARA RAO J,