

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Criminal Revision Case No.1685 of 2017

ORDER:

The Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, ('the Code', for brevity), is filed by the petitioner, having been aggrieved of the order, dated 17.05.2017, of the learned Principal Junior Civil Judge-cum-Judicial Magistrate of First Class at Husnabad, passed in CrI.M.P.No.178 of 2017 in Crime No.98 of 2017 of Husnabad Police Station, filed under Section 451 of the Code for return of the vehicle i.e., 'Maruthi Swift VXi BSIV' car – 2016 Model bearing No.TS 02 EQ 9921 for interim custody.

2. I have heard the submissions of Sri K. Venumadhav, learned counsel for the petitioner, and of learned Public Prosecutor (Telangana) appearing for the respondent-State. I have perused the material record.

3. The facts, which are required to be stated as a preface to this order, are in brief, as follows: "The above said vehicle was seized in the aforestated Crime. As per the case of the prosecution, the accused used the said vehicle while committing the alleged offence. Be that as it may, the petitioner-third party, claiming to be the owner of the vehicle, sought return of the vehicle and prayed for giving interim custody by filing the aforestated CrI.M.P.No.178 of 2017 under Section 451 of the Code by producing the necessary vehicular documents including the R.C. book of the vehicle. The petition was resisted by the prosecution. On merits and by the order impugned in this revision, the trial Court dismissed the petition of the petitioner-third party, observing, *inter alia*, that the vehicle was used while committing the offence and that if the vehicle is given interim custody, there is a chance of committing similar offence and that

the vehicle would be liable for confiscation, in case the Court eventually finds the accused guilty of the charge levelled against him.”

4. Aggrieved thereby, the petitioner filed this revision while disputing the correctness of the order impugned.

5. Learned counsel for the petitioner would submit as follows: ‘The seizure of the vehicle is reported to the Court below. The vehicle is in the custody of the Court. It is lying idle in the open place near the police station. The vehicle is being exposed to Sun, Rain and inclement weather conditions. If it is kept idle and unprotected at that place, which is open to the sky, its value is likely to get deteriorated. However, if the interim custody is given to the petitioner, he is prepared to furnish security as directed and abide by the conditions that may be imposed by this Court. He is prepared to produce the vehicle as and when directed by this Court or by the trial Court at any place or before any authority. Therefore, the impugned order may be set aside and the interim custody of the vehicle may be granted to the petitioner.’

6. Learned Public Prosecutor stated that the request of the petitioner may be considered on its merit having regard to the facts of the case.

7. Having regard to the facts and submissions and without expressing any opinion on the merits of the matter, this Court, at this stage, is satisfied that the interim custody of the above said vehicle 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 conditions without any protection would lead to deterioration of its value and causes 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 vehicle to the petitioner.

8. Accordingly, the Criminal Revision Case is allowed and while setting aside the order impugned, the learned Principal Junior Civil Judge-cum-Judicial Magistrate of First Class at Husnabad, is directed to give interim custody of the vehicle i.e., 'Maruthi Swift VXI BSIV' car [2016 Model] bearing No.TS 02 EQ 9921 to the petitioner on his executing a personal bond for a sum of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousands only) with one surety in a like sum to the satisfaction of the said learned Judge, and on the petitioner further undertaking that he will not alienate or transfer the vehicle 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 during the course of investigation as and when directed by the trial Court and would co-operate with the investigating agency.

Pending miscellaneous petitions, if any, in this Criminal Revision Case, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

Date: 23rd June, 2017

Note: Issue C.C. on 27.06.2017

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