

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.35340 of 2017

ORDER:

This Writ Petition under Article 226 of the Constitution of India is filed by the petitioners seeking the following relief:

“to declare the action of the respondents 2 & 3 in not releasing the petitioners Tractors & Trailers bearing Nos. AP 20 N 7711 & AP 24 X 6716 and AP 24 TA 1240 & AP 24 TA 1241 inspite of the petitioner offering to pay the penalty as contemplated under GO Ms 15 dt. 19-02-2015 is illegal, arbitrary and violative of Article 19 (1) (g) of the Constitution of India and consequently direct the 2nd & 3rd respondents to release the petitioners Tractors & Trailers by collecting penalty as per GO Ms No.15.”

2. I have heard the submissions of the learned counsel for the petitioners and the learned Assistant Government Pleader for the respondents. I have perused the material record.

3. The learned counsel for the petitioners would submit that when the petitioners filed applications for release of the vehicles before the learned Judicial Magistrate of First Class, at Nalgonda, in CrI.M.P.Nos.496 of 2017 & 494 of 2017 respectively, the same were returned by the Court with the office objection that the seized property has not been produced before the Court. He, therefore, would submit that the facts of the present case are identical to the facts in W.P.No.27998 of 2015 and that, therefore, the relief that was granted to the petitioners in the said writ petition may be granted to the petitioners in the present writ petition.

4. The learned Assistant Government Pleader would submit that tractors & trailers in question were seized while transporting sand

illegally and that a case in Crime No.164 of 2017 was registered under Section 379 IPC and Section 3 of the Prevention of Public Damage Property Act, on the file of Kanagal Police Station, on 12.09.2017 and that the said case is under investigation. However, the learned counsel for the petitioners would reiterate that he has been instructed to inform the Court that the vehicles are still in the custody of the police authorities.

5. Accepting the said statement and following the decision of this Court in the earlier writ petition, this Writ Petition is disposed of in terms of the said decision with the following directions:

“The petitioners are directed to submit an application for release of the vehicles before the competent authority and the competent authority, within three (03) days from the date of receipt of such application, examine whether the vehicles are used in committing the offence for the first and second time and if so, consider directing release of the vehicles on payment of the prescribed penalty. If, on the other hand, the vehicles are found to have been used in commission of the offence for three or more times, the officer concerned shall consider directing release of the vehicles after deposit of amount in accordance with Rule-12 of G.O.Ms.No.15 dated 19.02.2015 and also on execution of bond along with an affidavit giving consent to produce the seized vehicles as and when required.”

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE M. SEETHARAMA MURTI

Date: 31st October, 2017

Note: Issue C.C. today.

(B/o.)
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