

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.37889 of 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking the following relief/ s:

“..to issue a Writ, Order or Direction, more particularly one in the nature of a Writ of Mandamus declaring the action of the respondents in not releasing the Motor Cycle of the petitioner bearing No.T.S.04 EF 8627 pursuant to the registration of case in Cr.No.197 of 2017 on the file of P.S. Bayyaram, Mahaboobabad District as illegal, arbitrary, improper, unjust, violation of principles of natural justice and consequently direct the respondents to release the Motor Cycle of the petitioner bearing no. T.S. 04 EF 8627 forthwith to the petitioner and pass such other order or orders ...”

(Reproduced verbatim)

I have heard the submissions of the learned counsel appearing for the petitioner, of the learned Government Pleader representing the respondents 1 & 2, and of the learned Assistant Government Pleader representing the 3rd respondent. I have perused the material record.

Learned counsel for the petitioner would submit that the petitioner's husband purchased the subject Motor Cycle in the name of the petitioner and that a case in crime no.197 of 2017 has been registered against one T. Mahesh and another for the offence punishable under Section 34(A) of the A.P. Excise Act, 1968, *inter alia*, alleging that the said two persons are taking liquor on the Motor Cycle when it was intercepted and seized on 15.10.2017. He would further submit that when the petitioner approached the Court of the learned Judicial Magistrate of First Class, Yellandu, the petition was not entertained on the ground that the seizure of the vehicle is not reported to the Court.

Learned Government Pleader and the learned Assistant Government Pleader, on instructions, would submit that the 3rd respondent reported the seizure of the vehicle to the Deputy Commissioner, Prohibition & Excise, Mahaboobabad, and that he is the competent authority to release the vehicle. It is also submitted that the said authority is not made a party to the present writ proceeding.

Having regard to the facts and submissions, the Writ Petition is disposed of directing the Deputy Commissioner, Prohibition & Excise, Mahaboobabad, to release the Motor Cycle of the petitioner bearing registration No.TS 04 EF 8627 and give interim custody of the same to the petitioner on the petitioner furnishing personal bond and third party surety/sureties to the satisfaction of the competent authority and on further undertaking that she will not alienate or transfer the subject 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 shall produce it along with its vehicular documents at a specified place or before a specified authority/ Court as and when directed.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M. SEETHARAMA MURTI, J

14.11.2017

Note:- Issue CC by 15.11.2017

(B/o)

Vjl