

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.11455 of 2017

ORDER

This petition is filed under Section 482 Cr.P.C., to quash the proceedings in C.C.No.334 of 2016 on the file of Judicial First Class Magistrate, Thorrur, against the petitioner/A2.

Petitioner is accused No.2. He contended that he is not the owner of vehicle and the owner of vehicle has already filed a petition for interim custody of the property and obtained interim custody vide order dated 28.01.2016 passed by the Judicial First Class Magistrate, Thorrur.

The further contention of petitioner is that he is not the owner of vehicle and he cannot be made as accused for the offences punishable under Sections 180 and 201 of Motor Vehicles Act (for short 'the Act') since the owner, by name, Smt Andru Vanaja, w/o. Rajendra Prasad Reddy, filed an application and obtained property release order on 28.01.2016 and therefore, the petitioner is not liable to be proceeded for the said offences and prayed for quashment of proceedings against the petitioner/A2 in C.C.No.334 of 2016.

According to the allegations made in the charge sheet, A2 handed over the vehicle to A1 to drive the same without licence and caused obstruction to the traffic. As seen from the material available on record including the allegations made in the charge sheet, the date of occurrence was on 01.01.2016 and A2 is the owner of the vehicle, but the contention of petitioner is that the property was already released in favour of Smt Andru Vanaja

w/o.Rajendra Prasad Reddy, by order dated 28.01.2016, as she is the owner as on the date of filing of petition.

Learned Public Prosecutor for the State of Telangana contended that as on the date of accident, accused No.2 is the lessee of the accident vehicle i.e. lorry and obtained lease deed from the owner, thereby liable for the offence punishable under Sections 180, 181 and 201 of Motor Vehicles Act.

The offence allegedly committed by the petitioner herein is punishable under Section 180 and 181 of the Motor Vehicles Act, 1988 (for short "M.V.Act") and under Section 201 of I.P.C.

Section 180 of the M.V.Act reads as follows:

"180. Allowing unauthorised persons to drive vehicles.—Whoever, being the owner or person in charge of a motor vehicle, causes or permits, any other person who does not satisfy the provisions of section 3 or section 4 to drive the vehicle shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both."

Section 181 of the M.V.Act reads as follows:

"181. Driving vehicles in contravention of section 3 or section 4.—Whoever drives a motor vehicle in contravention of section 3 or section 4 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both."

The petitioner herein is the person having control over the vehicle being hirer and thereby he is also responsible for the offence being the person in-charge of the vehicle as a hirer. But on the ground that he is not the owner of the vehicle in view of the lease of the vehicle obtained by him under lease deed, the proceedings cannot be quashed.

At the end, learned counsel for the petitioner requested this Court to dispense with the appearance of the petitioner before the

Magistrate in C.C.NO.334 of 2016, but this Court while exercising power under Section 482 of Cr.P.C. cannot exercise power under Section 205 of Cr.P.C. Therefore, liberty is given to the petitioner to file an application under Section 205 of Cr.P.C. or under Rule 37 of Criminal Rules of Practice; on filing such application the Magistrate concerned is directed to pass appropriate orders in accordance with law.

With the above directions, the petition is dismissed. No costs.

Consequently, miscellaneous petitions pending, if any, shall also stand dismissed.

05.12.2017
sj/Ksp

JUSTICE M. SATYANARAYANA MURTHY

