

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.11101 OF 2017

ORDER:

This criminal petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") questioning the Order dt. 16.11.2016 in Criminal Revision Petition No.112 of 2016 passed by the Principal Sessions Judge, Guntur, dismissing the revision preferred against the Order in CrI.M.P.No.6885 of 2016 in Cr.No.84 of 2016, whereby the Magistrate dismissed the petition filed under 457 Cr.P.C. i.e., return of vehicle bearing No. AP 07 BG 1104 seized in Crime No.84 of 2016 of Arundelpet Police Station.

The petitioner is a 3rd party i.e., owner of the vehicle involved in the crime. Respondent Nos. 2 to 8 are the accused in the said crime.

The main contention before the Court below that in case the vehicle is allowed to expose to the heat and rain, it will become derelict and will become not fit to use and therefore, requested the Court to order interim custody of the vehicle during pendency of Sessions Case registered for the offence under Section 302 IPC.

The trial Court dismissed the petition on misapprehension that vehicle if given for interim custody, it would be difficult to secure the same at the time of trial. Aggrieved by the Order dt.22.08.2016, the petitioner preferred a revision before the

District Court, which ended in dismissal confirming the Order passed by the V Additional Junior Civil Judge, Guntur.

During hearing, learned counsel for the petitioner reiterated the same contention. However, learned Public Prosecutor for the State of Andhra Pradesh requested this Court to impose strict conditions so as to enable the prosecution to secure the vehicle for the purpose of trial and disposal of the case.

It is settled law that when a vehicle involved in the crime and the same cannot be kept in the open place exposing it to the heat and rain and a similar question came up before Apex Court in ***Sunder Bhai Ambalal Desai v. State of Gujarat***¹, wherein the Apex Court held that it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicle.

In view of the law declared by the Apex Court, the interim custody of the vehicle has to be given to the owner of the vehicle on production of proof of identity and furnishing security, subject to an undertaking to produce the same as and when directed by the Court.

Learned Public Prosecutor also fairly conceded for grant of interim custody subject to imposing conditions for production of the vehicle before the Court as and when directed by the Court.

¹ (2002) 10 SCC 283

In view of the law declared by the Apex Court and the observation made by the Magistrate vide para No.6 that the petitioner is the owner of the vehicle, it is appropriate to direct the SHO, Arundelpet Police Station, to produce the vehicle before the concerned Magistrate and on such production, the Magistrate is directed to handover the same to the petitioner as interim custody on proof of identity and ownership of the vehicle after obtaining an undertaking from the petitioner that she will produce the vehicle as and when directed by the Court, and to keep the vehicle in fit condition without any alterations and on executing a bond for Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties for production of the vehicle to the satisfaction of the concerned Magistrate.

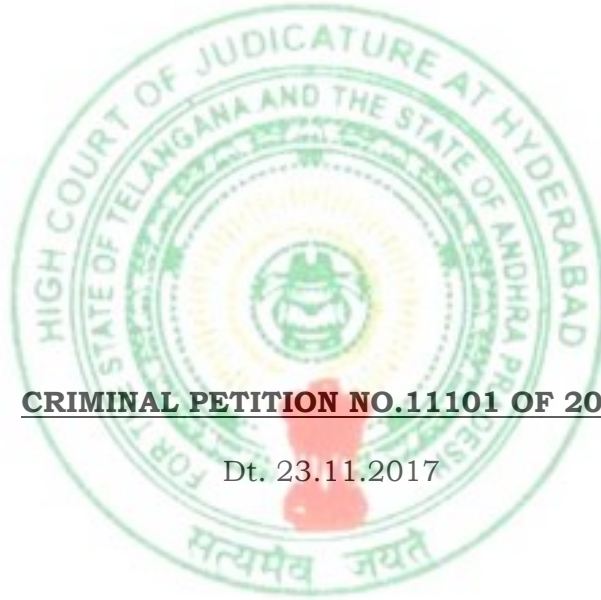
Accordingly, this Criminal Petition is disposed of.

Consequently, miscellaneous applications pending if any, shall stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Dt. 23.11.2017
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