

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.35401 of 2017

ORDER:

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

“to declare the action of the respondents 2 & 3 in not releasing the petitioner's Tractor & Trailer bearing Nos. AP 24 TC 0308 & AP 24 TC 0309 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 petitioner's Tractor & Trailer by collecting penalty as per GO Ms No.15.”

2. I have heard the submissions of the learned counsel for the petitioner and the learned Assistant Government Pleader for the respondents 1 & 2. I have perused the material record.

3. The learned counsel for the petitioner would submit that on seizure of the subject vehicles, CrI.M.P.No.495 of 2017 was filed before the Court of the learned Judicial Magistrate of First Class, At Nalgonda, for interim custody of the vehicles, but the said application was returned stating that the property is not 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 in the present writ petition to the petitioner.

4. The learned Assistant Government Pleader would submit that the said tractor and trailer were seized while transporting sand illegally and that a *suo moto* case in Crime No.173 of 2017 was registered for the

offences punishable under Section 379 IPC and Section 3 of the Prevention of Public Damage Property Act, on the file of Kanagal Police Station, on 04.10.2017 and that the said case is under investigation. However, the learned counsel for the petitioner 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 petitioner is 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.)
KL

36

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**WRIT PETITION No.35401 of 2017**Date: 31st October, 2017

KL