

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 11575 OF 2017

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure to quash the order dated 16-10-2017 in CrI.M.P.No. 1308 of 2017 in crime No. 115 of 2017 on the file of the Court of Judicial Magistrate of I Class, Palamaner (for short, 'the Court below').

2. The petitioner is the owner of lorry bearing No. NL 01 L 8532 which is carrying 224 Apollo Tyres. The said lorry was committed theft when it was parked near a hotel and the above crime was registered with Police, Palamaner. The petitioner filed the abovementioned M.P. for return of the property. The Court below by the impugned order while allowing the petition however imposed certain conditions *i.e.* to execute a personal bond for Rs.51,00,000/- with two sureties for the like sum and not to alienate the property *etc.,*.

3. During hearing, learned counsel for the petitioner readily agreed that he will not alienate and change the colour of the lorry till disposal of the calendar case. He however would contend that imposing condition not to alienate the property *i.e.* tyres is virtually denying the relief and similarly imposing the condition to executing bond for Rs.51,00,000/- virtually amounts to denial of the relief. No doubt, the articles that were being transported on the date of offence are Apollo Tyres and if the same are not sold, they will become useless on account of passage of time and will become brittle. Therefore, imposing condition not to alienate the tyres belonging to consignor is illegal and it amounts to depriving the consignor from enjoying the fruits of business in the sale of tyres. Similarly, insisting for execution of bond for Rs.51,00,000/- with two sureties for the like sum is also illegal and the property is only stolen property belonging to

the petitioner and it is required only for the purpose of identification during trial. Hence, this condition of executing bond for Rs.51,00,000/- with two sureties for the like sum is modified to that of executing bond for Rs.5,00,000/- with two sureties for the like sum while permitting the petitioner to deliver the load of tyres to the consignor.

4. The criminal petition is accordingly allowed to the extent indicated above while the other conditions imposed by the Court below shall remain unaltered. Pending miscellaneous petitions, if any, in this criminal petition shall stand closed in consequence.

Date: 24-11-2017.
JSK

M.SATYANARAYANA MURTHY, J.

