

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.5686 OF 2018

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. to quash the order dated 11.04.2018 in CrI.M.P.No.630 of 2018 in Crime No.8 of 2018 passed by the Judicial Magistrate of Second Class, Rampachodavaram dismissing the petition under Section 457 Cr.P.C. to release the crime vehicle i.e. Jumbo Eicher bearing No.TS 08 UB 6473 as interim custody.

The petitioner is the owner of the vehicle bearing No. TS 08 UB 6473, which was seized by the police during investigation for the offences punishable under Sections 11(1)(d)(e) of the Prevention of Cruelty of Animals Act, 1960 read with 5, 6, 8 read with 10 of the A.P. Prohibition of Cow Slaughter and Animals Prevention Act, 1977, and Rule 47(b) of Transportation of Animals Rules, 1974.

The petitioner being owner depending upon the income derived from the vehicle. If the vehicle is kept in idle exposing to sun and light, it will be damaged in few months and he will sustain loss. Therefore, requested to release the vehicle by exercising power under Section 451 Cr.P.C. Learned Assistant Public Prosecutor opposed the petition raising several contentions before the Court below. Considering the facts and circumstances of the case, the said petition was dismissed declining to release the vehicle.

Aggrieved by the said order, the present petition is filed contending that the order passed by the Court below is contrary to the certain guidelines issued by the Apex Court in **Sunderbhai**

Ambalal Desai v State of Gujarat¹ and requested the Court to set aside the said order and direct the Magistrate to release the vehicle.

Learned Public Prosecutor opposed the petition on the same grounds urged before the Court below.

The investigation in this case is almost completed and the offence is allegedly committed by the petitioner is transportation of animals by vehicle. The Apex Court opined at para 17 as follows:

“In our view, whatever be the situation, 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 vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.”

and also opined at para 18 as follows:

“In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company then insurance company be informed by the Court to take possession of the vehicle which is not claimed by the owner or a third person. If insurance company fails to take possession, the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchanama should be prepared.”

In view of the guidelines issued by the Apex Court in **Sunderbhai Ambalal Desai's** case referred supra, the Court is

¹ AIR 2003 SC 638

bound to release the vehicle. Therefore, the order dated 11.04.2018 in CrI.M.P.No.630 of 2018 in Crime No.8 of 2018 passed by the Judicial Magistrate of Second Class, Rampachodavaram is hereby set aside while directing the Magistrate to follow the guidelines issued by the Apex Court in **Sunderbhai Ambalal Desai's** case referred supra and release the vehicle.

With the above direction, the criminal petition is allowed.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

26.06.2018
kvrm

M.SATYANARAYANA MURTHY,J

