

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.19779 of 2018

ORDER:

Heard counsel for petitioner, the Government Pleader for Civil Supplies appearing for respondents 1 to 3, and the Government Pleader for Home appearing for 4th respondent.

2. Petitioner is owner of a goods carriage vehicle i.e., ACE Trolley Auto manufactured by M/s Tata Motors Limited bearing registration No.AP 20 TB 3567 with the RTA Khammam.

3. Petitioner contends that said vehicle has been seized by the respondents, in connection with a case in FIR No.17 of 2017 dt.06.07.2017 registered against one Bathula Raju under Section 420 of IPC and Section 7 of the Essential Commodities Act, 1955, along with 30 bags rice therein under a panchanama.

4. Petitioner contends that though he made an application to 3rd respondent for release of the same on 23.01.2018 no action has been taken by the 3rd respondent in that regard. Petitioner also states that he approached the III Additional Magistrate of First Class at Kothagudem by filing CrI.MP.No.4718 of 2017 but the said Court dismissed the said application on 08.11.2017 stating that he had no jurisdiction to entertain it under Section 7 of the Essential

Commodities Act, 1955. Petitioner therefore prays for release of the vehicle.

5. The Government Pleader for Civil Supplies states that the said vehicle was found involved in the commission of offence by the accused and therefore the vehicle cannot be released. I am unable to agree with the said submission.

6. When the owner of the vehicle is not the person who is accused of the offence, I do not see any reason why the vehicle is required to be detained with the respondents, merely because it was used by the accused to commit violation of Section 7 of the Essential Commodities Act, 1955.

7. Therefore, the Writ Petition is allowed directing the respondents to release the vehicle referred to above to the petitioner within one (01) week from the date of receipt of a copy of this order, subject to the petitioner furnishing an undertaking that he will not alienate the vehicle or create any third party interest over it and will not alter its nature and that he will produce the same as and when required before the authorities. No order as to costs.

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

M.S.RAMACHANDRA RAO, J

14th June, 2018.
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