

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.6637 of 2018

ORDER:

This criminal petition is filed under Section 482 of the Code of Criminal Procedure, 1973, to set aside the order dated 14.02.2018 passed in CrI.M.P.No.404 of 2018 in Crime No.10 of 2018 passed by the Additional Judicial First Class Magistrate at Yelamanchili.

2. The case of the petitioner/owner is that he filed a petition in CrI.M.P.No.404 of 2018 in Crime No.10 of 2018 under Section 457 of Cr.P.C. for release of the vehicle i.e., lorry bearing No.TN 41 AB 7806.

3. The public prosecutor opposed the petition on the ground that the petitioner was transporting the cattle (oxen) unlawfully in the said lorry without any permit and hence the vehicle was seized.

4. Upon hearing arguments of both the counsel for petitioner and the State, the learned Magistrate dismissed the petition.

5. Aggrieved thereby, the petitioner filed this criminal petition on the ground that if the vehicle is kept ideal, it may not be useful for any purpose and therefore, requested this Court to release the vehicle.

6. Learned counsel for the petitioner reiterated the contentions raised in the criminal petition and placed reliance on the judgment of the Apex Court in **General Insurance Council & ors. V. State of A.P. & Ors.** (W.P.(C) No.14 of 2008) wherein it was held that,

"15. It is a matter of common knowledge that as and when vehicles are seized and kept in various police stations, not only they occupy substantial space of the police stations but upon

- 2 -

being kept in open, are also prone to fast natural decay on account of weather conditions. Even a good maintained vehicle loses its road worthiness if it is kept stationary in the police station for more than fifteen days. Apart from the above, it is also a matter of common knowledge that several valuable and costly parts of the said vehicles are either stolen or are cannibalised so that the vehicles become unworthy of being driven on road. To avoid all this, apart from the aforesaid directions issued hereinabove, we direct that all the State Governments/ Union Territories/Director Generals of Police shall ensure macro implementation of the statutory provisions and further direct that the activities of each and every police stations, especially with regard to disposal of the seized vehicles be taken care of by the Inspector General of Police of the concerned Division/Commissioner of Police of the concerned cities/Superintendent of Police of the concerned district."

7. In the above judgment, the Apex Court also issued certain directions that taking photographs while releasing the vehicles to the registered owner.

8. By applying the principle laid down in the above judgment, the criminal petition is allowed, setting aside the order dated 14.02.2018 passed in Crl.M.P.No.404 of 2018 in Crime No.10 of 2018 while directing the learned Magistrate to release the aforesaid vehicle subject to furnishing third party security for the value of the vehicle after getting the vehicle valued by RTO, by the petitioner and following the guidelines laid down by the Apex Court referred supra.

9. Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY, J

20th July, 2018
sj