

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.6640 OF 2018

ORDER:

This criminal petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') to set aside the order dated 07.03.2018 in CrI.M.P. No.743 of 2018 in Crime No.7 of 2018 passed by the Judicial First Class Magistrate at Yelamanchili.

The case of the petitioners is that he filed a petition in CrI.M.P.No.743 of 2018 in Crime No.7 of 2018 before the Judicial First Class Magistrate, Yelamanchili, under Section 457 of Cr.P.C. for release of the vehicle Multi Axle good Ashok Leyland bearing No.TN 57 R 9909.

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

Upon hearing argument of both the petitioner and the State, the learned Magistrate dismissed the petition.

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

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 being kept in open, are also prone to fast natural

- 2 -

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.”

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

By applying the principle laid down in the above judgment, the criminal petition is allowed setting aside the order dated 07.03.2018 passed by the Judicial First Class Magistrate at Yellamanchilli, in CrI.M.P.No.743 of 2018 while directing the learned Magistrate to release the vehicle following the guidelines laid down by the Apex Court referred supra.

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

M. SATYANARAYANA MURTHY, J

Date:28.06.2018
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