

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.1728 of 2018

ORDER:

Heard the learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondent State.

The present revision case is filed challenging the orders passed in CrI.M.P.No.315 of 2018 in Crime No.443 of 2017 dated 19.03.2018 on the file of the Court of the II Additional Judicial Magistrate of First Class, Tirupati, Chittoor district, dismissing the petition seeking interim custody of the vehicle bearing No.AP 26 U 2888.

The facts of the case are that the petitioner herein is the owner of the above said vehicle. The said vehicle is being used as a Taxi for the purpose of carrying the pilgrims from Tirupati to Tirumala and back to Tirupati. The said vehicle was seized in connection with Crime No.443 of 2017 for the offences under Sections 147, 148, 302, 506, 109 read with Section 149 IPC. Pending investigation, the petitioner filed CrI.M.P.No.315 of 2018 on the file of the learned II Additional Judicial Magistrate of First Class, Tirupati, seeking interim custody of the vehicle on the premise that the said vehicle is not used in the commission of the offence. The said petition has been dismissed by the Court below on 19.03.2018. Aggrieved by the same, the present revision case is filed.

Learned counsel appearing for the petitioner contended that the petitioner is the owner of the vehicle and it is not used in the commission of the offence. The learned Magistrate failed to see that the petitioner is no way concerned with the alleged

commission of offence and the vehicle has been unnecessarily seized. The learned Magistrate also failed to see that the petitioner has purchased the vehicle by spending huge amounts so as to eke out his livelihood on the earnings of the said vehicle. He brought to the notice of this Court the judgment of the Apex Court in **Sunderbhai Ambalal Desai vs. State of Gujarat**¹, wherein it is held that the vehicles involved in crime shall be given custody in order to save the same from deterioration by exposing to the vagaries of weather. He also submitted that while releasing the vehicle any reasonable conditions may be imposed to safeguard the interest of the prosecution.

The learned Public Prosecutor appearing for the respondent State has not opposed the same, but, however, requested the Court to impose stringent conditions.

Having heard both the counsel and after perusal of the material on record, it is revealed that the subject vehicle has been seized in connection with Crime No.443 of 2017 of East Police Station, Tirupati, Chittoor district. Though the petitioner claims that the said vehicle is not used in the commission of offence and he has no concern with the same, the same are the subject matters of the ongoing investigation and this Court cannot go into those aspects.

Be that as it may, when the vehicle has already been seized and in the custody since October, 2017, and when the vehicle is not being used, there is every possibility of the same getting damaged. Even as per the judgment of the Apex Court reported in **Sunderbhai Ambalal Desai (supra)** and reiterated in **General**

¹ AIR 2003 SC 638

Insurance Counsel and others vs. State of A.P. and others², the vehicles involved in crime shall be given custody in order to save the same from deterioration by exposing to the vagaries of weather. Therefore, this Court deems it appropriate to allow the revision case by giving interim custody of the subject vehicle to the petitioner subject to certain terms.

Accordingly, the criminal revision case is allowed setting aside the order passed in CrI.M.P.No.315 of 2018 in Crime No.443 of 2017 dated 19.03.2018 by giving interim custody of the vehicle bearing registration No.AP 26 U 2888 to the petitioner subject to his furnishing a third party security to the extent of Rs.50,000/- (Rupees Fifty thousand only) apart from giving an undertaking in the form of an affidavit before the Court below to the effect that he will not alter, alienate or transfer the subject vehicle in favour of a third party pending disposal of the crime. The petitioner is also directed to keep the original registration certificate in the Court below and is permitted to obtain a certified copy of the same.

Miscellaneous petitions, if any, shall stand closed.

P. KESHAVA RAO, J

Date: 16.07.2018.
ES

² 2011 (3) ALD 82 (SC)