

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.1898 of 2018

ORDER:

Heard the learned counsel for the petitioner and the learned Public Prosecutor appearing for the 1st respondent State.

The present revision case is filed questioning the orders passed in C.F.(SR).No.368 of 2018 in Crime No.60 of 2018 dated 23.05.2018 on the file of the Additional Judicial Magistrate of First Class, Garla, Khammam, dismissing the petition filed under Section 457(1) Cr.P.C., to return the Ashok Leyland Trolley bearing No. AP 27 TU 4667 to the petitioner.

The facts in brief are that the petitioner is the owner of the Trolley bearing No. AP 27 TU 4667. The said vehicle was seized in connection with Crime No.60 of 2018 for the offence under Section 34(E) of the A.P. Excise Act. Pending the said case, the petitioner filed a petition under Section 457 (1) Cr.P.C., to release the vehicle pending the proceedings on the file of the Additional Judicial Magistrate of First Class, Garla, Khammam. The learned Magistrate returned the said petition by orders dated 23.05.2018. Aggrieved by the same, the present revision case is filed.

Learned counsel appearing for the petitioner would submit that the order passed by the Court below in returning the petition is contrary to law, weight of evidence and probabilities of the case. The Court below ought to have seen that the jurisdiction of a criminal Court is not ousted so far as in relation to release of vehicles involved in alleged offence and that the seizure of vehicle is affected by law and order police and as such the subject vehicle would have been released in favour of the petitioner. In fact, the

petitioner being the owner has no knowledge about carrying of black jaggery in his vehicle. If the said vehicle is in the custody of the police, there is every possibility of the vehicle being damaged since it is exposed to the vagaries of nature. Learned counsel also submitted that conditions may be imposed in the event of the vehicle being released.

The learned Public Prosecutor appearing for the 1st respondent State has not opposed the relief sought in the revision case.

Having heard both the counsel and from a perusal of the material on record, it is revealed that the subject vehicle was seized in connection with Crime No.60 of 2018 for the offence under Section 34 (E) of the A.P. Excise Act. If the vehicle is exposed to the vagaries of nature, there is every possibility of it getting damaged. At the same time, if the vehicle is released, the same may be alienated or the nature of the vehicle may also be changed, which will be detrimental to the prosecution case. In such a case, the interest of prosecution has to be protected till the conclusion of the proceedings. In that view of the matter, this Court deems it appropriate to release the subject vehicle to the petitioner subject to certain terms.

Accordingly, the criminal revision case is allowed, setting aside the order passed in C.F.(SR).No.368 of 2018 in Crime No.60 of 2018 dated 23.05.2018 by giving interim custody of the vehicle i.e., Ashok Leyland Trolley bearing No. AP 27 TU 4667 to the petitioner subject to his furnishing a third party security for a sum of Rs.75,000/- (Rupees Seventy Five thousands only) to the credit of Crime No.60 of 2018 on the file of the Additional Judicial

Magistrate of First Class, Garla, Khammam, within a period of two weeks from today, apart from giving an undertaking in the form of an affidavit before the Court below to the effect that he will not alter the nature of the vehicle, alienate or transfer the subject vehicle in favour of a third party pending disposal of the proceedings. The petitioner is also directed to deposit 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: 30.07.2018.
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