

HONOURABLE SRI JUSTICE N. BALAYOGI

CRIMINAL REVISION CASE No. 1887 OF 2018.

ORDER:

1. This Criminal Revision Case under Section 397 Cr.P.C. is filed aggrieved by the order dated 29.03.2018 passed in CrI.M.P.No.628 of 2018 in Crime No. 7 of 2018 by the learned Judicial Magistrate of Second Class, Rampachodavaram, rejecting the request of the petitioner/owner to grant interim custody of seized vehicle bearing registration No.TS 06 UA 9750.

2. The contention of the petitioner is that he is the owner of seized vehicle bearing registration No.TS 06UA 9750 and that the trial Court without considering the facts and circumstances dismissed the petition filed by him under Section 457 Cr.P.C. seeking to release the seized vehicle towards his interim custody.

Per contra, learned Additional Public Prosecutor appearing for the respondent-State contended that the said vehicle was seized on account of transporting 45 Oxes and Cows illegally, in cruelty manner and hence the said vehicle was seized for the offences under Section 11(1)(d)(e) of Prevention of Cruelty to Animals Act, 1960 and Section 47(b) of Transporting of Animals Rules, 1974.

3. Now the point that arises for consideration is:

“ Whether the petitioner is the registered owner of the seized vehicle and whether he is entitled for interim custody of the said vehicle ?”

4. A perusal of the material on record goes to suggest that the crime vehicle bearing Registration TS 06 UA 9750 (Eicher) was found transporting Oxes and Cows illegally, in cruelty manner and hence, it was seized in connection with Crime No.7 of 2018 attracting the offences under Section 11(1)(d)(e) of Prevention of Cruelty to Animals Act, 1960, and Section 47(b) of Transporting of Animals Rules, 1974.

5. To establish that the petitioner is the registered owner of the crime vehicle, he filed Certificate of Registration (RC) issued by the Government of Telangana, in proof of the same. He also filed a copy of his Adhar Card bearing No.464212499794 to show his identity.

6. The Apex Court in the case of *SUNDERBHAI AMBALAL DESAI Vs. STATE OF GUJARAT* (AIR 2003 SC 638) 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. The learned Counsel for the respondent submits that while releasing the vehicle in terms of the decision of the Apex Court referred supra, reasonable conditions may be imposed to safeguard the interest of the prosecution.

7. It is brought to the notice of the Court that upon completion of investigation in the alleged crime, charge sheet is filed and the same is pending consideration before the trial Court. Further it is to be seen that the petitioner is the registered owner of

the crime vehicle. In the facts and circumstances of the case, since investigation is completed and charge sheet is filed and further that if the vehicle is not used, it would be spoiled and getting rusted and also there is every possibility of the same getting damaged due to deterioration by exposing to vagaries of weather, it is appropriate that the crime vehicle can be given interim custody to the petitioner who is its registered owner, subject to certain terms and conditions.

8. Accordingly the Criminal Revision Case is allowed while setting aside the order dated 29.03.2018 passed in CrI.M.P.No. 628 of 2018 in Crime No. 7 of 2018 on the file of learned Judicial Magistrate of Second Class, Rampachodavaram and it is hereby ordered that the interim custody of vehicle bearing No. TS 06 UA 9750 (Eicher) shall be given to the petitioner on his furnishing security to the extent of Rs.50,000/- with two sureties each to the like sum to the satisfaction of learned Judicial Magistrate of Second Class, Rampachodavaram and also on condition that the petitioner shall furnish an undertaking that he will not alter, alienate, encumber or transfer the subject vehicle in favour of third parties pending adjudication of crime and produce the vehicle as it is as and when directed by the trial Court during the trial or when ever required by the trial Court. The petitioner is also directed to surrender the original Registration Certificate of the crime vehicle to the trial Court and he is permitted to obtain a certified copy of the same.

9. Miscellaneous petitions pending consideration if any in the Criminal Revision Case shall stand closed in consequence.

JUSTICE N. BALAYOGI

Dated 14th August, 2018.
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