

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Crl.P. No.9030 OF 2018

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. to modify the conditional order dated 16.07.2018 passed in Crl.M.P.No.2043 of 2018 in Crime No.783 of 2017 by the Metropolitan Sessions Judge, Nampally, Hyderabad to the extent of imposing condition to deposit Rs.20,000/- for releasing KTM Duke motorbike bearing No.TS 09 EV 2616.

The main ground urged before this Court is that insisting to deposit Rs.20,000/- for release of the KTM Duke motorbike bearing No.TS09 EV 2616 is an onerous condition and when there is no dispute with regard to the ownership of the vehicle insisting deposit of Rs.20,000/- is erroneous and prayed to set aside the order of the Court below to the extent of imposing the said condition.

Learned counsel for the petitioner submitted that the Court below directed the petitioner to deposit Rs.20,000/- insisting the petitioner to produce vehicle as and when directed and not for any other purpose since the ownership is not in dispute. Therefore, such portion can be eschewed if the petitioner is directed to execute bond for the same amount. As such the order directing the petitioner to deposit Rs.20,000/- is to be modified directing the petitioner to execute a bond for Rs.20,000/- with two sureties for a like sum each to the satisfaction of the concerned Court.

The Court below rejected the release of seized vehicle on the ground that the petitioner did not furnish the documents of ownership

of motor bike and the said finding is now challenged before this Court on the ground that the ownership is not in dispute and if the vehicle is retained, the same is unused and exposed to the sun and rain and it become derelict. Hence, the learned counsel for the petitioner requested to pass appropriate order.

The power under Section 451 Cr.P.C. should be exercised expeditiously and judiciously, which would serve various purposes, viz. owner of the article would not suffer because of its remaining unused or by its misappropriation, Court or the police would not be required to keep the article in safe custody, if the proper panchanama before handing over possession of article is prepared, that can be used in evidence instead of its production before the Court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail and this jurisdiction of the Court to record evidence should be exercised promptly so that there may not be further change of tampering with the articles as held by the Apex Court in **Sunderbhai Ambalal Desai v. State of Gujarat**¹.

The purpose of return of property must be only to the owner of the property and not to any third party and owner of the property has to produce certain evidence as to ownership. In support of his contention that he is owner of the property, the petitioner did not produce any documentary evidence to establish that he is owner of the property. Therefore, the Court below rightly declined to return the property and order of the Court below does not call for any interference of this Court.

¹ 2002 Law Suit (SC) 1346

In view of the above, the criminal petition is disposed of modifying the order dated 16.07.2018 passed in CrI.M.P.No.2043 of 2018 in Crime No.783 of 2017 by the Metropolitan Sessions Judge, Nampally, Hyderabad to the extent of directing the petitioner to execute bond for a sum of Rs.20,000/- with two sureties for a like sum each to the satisfaction of the concerned Court for releasing KTM Duke motorbike bearing No.TS 09 EV 2616 instead of depositing Rs.20,000/-.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

27.08.2018
kvrm



M.SATYANARAYANA MURTHY,J