

HON' BLE SRI JUSTICE G. SHYAM PRASAD

CrI.R.C.No. 2356 of 2018

JUDGMENT:-

This Criminal Revision Case arises out of the order dated 26.06.2018 in CrI.M.P.No. 1117 of 2018 in Cr.No.35 of 2018 of Duvvada Police Station passed by IV Additional Metropolitan Sessions Judge, Gajuwaka.

Heard the learned counsel for the petitioner and the learned Public Prosecutor appearing on behalf of the 1st respondent and perused the material placed on record.

The revision petitioner is the third party, who is the owner of the Car bearing No. AP31 TJ 0179. His car was engaged for UBER services and it was involved in Cr.No. 35 of 2018 of Duvvada Police Station.

The petitioner filed a petition under Section 451 Cr.P.C. before VIII Additional Chief Metropolitan Magistrate, Gajuwaka which was numbered as CrI.M.P.No. 1369 of 2018 and the same was dismissed on 14.03.2018 on the ground that the vehicle was involved in an offence punishable under Section 307 IPC which is exclusively triable by the Court of Sessions. Being aggrieved by the same, the petitioner filed CrI.M.P.No. 1117 of 2018 under Section 457 Cr.P.C. for return of the crime vehicle on the ground that the vehicle gets rusted if it is kept idle and that he would produce the vehicle whenever required

by the Court, and the learned IV Additional Metropolitan Sessions Judge, Gajuwaka dismissed the application on the ground that the petitioner ought to have filed Criminal Revision Petition against the order passed by the learned Magistrate.

A perusal of the order passed by the learned Sessions Judge reveals that he dismissed the petition as it is misconceived. The observations of the learned Sessions Judge do not require any interference for the reason that the petitioner ought to have filed Criminal Revision Petition before the learned Sessions Judge challenging the orders passed by the trial Court. Section 457 Cr.P.C. deals with the procedure to be followed by the police for seizure of property. The learned Magistrate has already passed an order stating that the offence is exclusively triable by the Court of Sessions, therefore, he could not order return of the vehicle to the petitioner.

In view of the provisions contemplated under Sections 451 and 457 Cr.P.C. the petitioner can file a Criminal Revision Petition before the Sessions Judge for interim custody of the vehicle.

For the foregoing reasons, this Criminal Revision Case is liable to be dismissed. However liberty is given to the petitioner to file a Criminal Revision Petition before the

learned Sessions Judge for return of the crime vehicle, and on such petition being filed, and the same shall be considered and disposed of within a period of one month from the date of receipt of a copy of this order.

With the above observations, the Criminal Revision Case is disposed of.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

08.11.2018

G. SHYAM PRASAD, J

Note:- Furnish copy by Monday

b/o
bcj

