

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.9606 of 2018

ORDER

This petition is filed under Section 482 Cr.P.C. to quash the order dated 02.07.2018 passed in Crl.M.P.No.2778 of 2018 in C.C.No.1543 of 2018 by the III Additional Chief Metropolitan Magistrate, Hyderabad in a petition filed under Section 451 Cr.P.C. declining to grant interim custody of the Ultra Sound Scan Machine, make GE, Motel LOGIC 200 PRO, SI.No.2271423.

The ultra sound scanning machine was seized by the competent authority as the machine was used to determine the sex of unborne child in a crime for the offence punishable under Section 28 of P.C. & P.N.D.T. Act, 1994 in violation of Rules 9 and 10 of Pre Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Rules, 1996 and violation of Sections 18 and 23 of P.C. and P.N.D.T.Act, 1994 and the same was produced before the Court. During pendency of the trial the petitioner sought for interim custody.

As per the judgment of the Apex Court in **Sunderbhai Ambalal Desai v State of Gujarat**¹, the Court has to dispose of the property within one month from the date of seizure in a petition filed under Sections 451 and 457 Cr.P.C. The order passed by the Court below apprehending that the petitioner may commit similar offence if interim custody is given is not a ground to deny interim custody of the machine. If the said machine is kept with the custody of the Court, the said machine will become derelict in few days ad it will become useless.

Therefore, taking in to consideration of the nature of machine and its value, the finding of the Court below is erroneous. As such the criminal petition is disposed of in view of the principles laid down in the judgment of

¹ 2002 Law Suit (SC) 1346

the Apex Court in **Sunderbhai Ambalal Desai's** case referred supra, III Additional Chief Metropolitan Magistrate, Hyderabad is directed to dispose of the property on condition to produce the same as and when directed by the Court in the same condition and obtain undertaking as contemplated in the above judgment of the Apex Court, during pendency of the case.

Miscellaneous petitions, if any, pending in this petition shall stand dismissed.

M. SATYANARAYANA MURTHY, J

10th September, 2018
kvrn

