

HON'BLE SRI JUSTICE N.BALAYOGI

CRIMINAL REVISION CASE No.2463 of 2018

ORDER:

Heard the learned counsel for the petitioner and learned Public Prosecutor for the State of Telangana.

Since both the parties agree for disposal of the main revision, I deem it appropriate to dispose of the main revision at the admission stage.

This Criminal Revision Case is filed questioning the order dated 30.08.2018 passed by the learned I Additional Judicial Magistrate of First Class, Mancheri, in CrI.MP.No.614 of 2018 in Crime No.89 of 2018.

Learned counsel for the petitioner submits that, though the petitioner is owner of vehicle bearing No.TS 36T 0193 Eicher Pro and made an application for return of the subject vehicle, the Trial Court dismissed the same holding that original RC was not filed showing that Arif @ Asif was the original owner of the vehicle. He further submitted that, as the certified copy of the Original RC was deposited in another Crime No.17 of 2018 in CrI.MP.No.187 of 2018 on the file of Judicial Magistrate of First Class, Bellampally, the same could not be produced before the Trial Court. He also submitted that, if the vehicle is kept idle in the police station, it would be badly damaged due to climatic conditions and the petitioner would suffer irreparable loss.

Per contra, learned Public Prosecutor submits that the vehicle seized is now in the police station and seizure was intimated to the

Court and the vehicle would be produced before the Court in usual course.

In **Sunderbhai Ambalal Desai and C.M.Mudaliar v. State of Gujarat**¹, the Supreme Court held that the object and scheme of the various provisions of the Code appear to be that where the property which has been the subject-matter of an offence is seized by the police, it ought not to be retained in the custody of the Court or of the police for any time long than what is absolutely necessary. It further held that as the seizure of the property by police amounts to a clear entrustment of the property to a Government servant, the idea is that the property should be restored to the original owner after the necessity to retain it ceases. The concerned Magistrate shall exercise powers under Section 451 Cr.P.C. and would take immediate action and see that articles are not kept for a long time at the police station in any case for not more than fifteen days to one month.

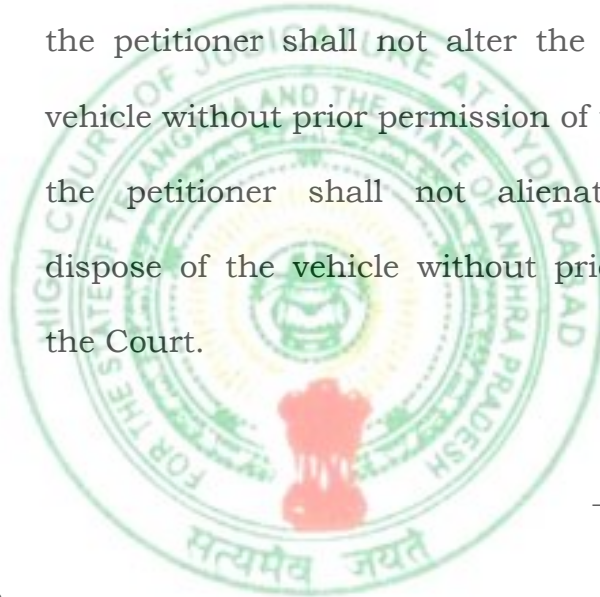
The undisputed fact is that petitioner is the owner of the subject vehicle. Admittedly, he did not file original R.C. in CrI.MP.No.614 of 2018 because the certified copy of the original R.C. was already deposited in another Crime No.17 of 2018 in CrI.MP.No.187 of 2018 on the file of Judicial Magistrate of First Class, Bellampally. The petitioner has produced a Xerox copy of the Certificate of Registration issued by the Government of Telangana in respect of vehicle bearing No.TS36T0193 and that the registered owner is Mohammad Arif, the petitioner herein. The subject vehicle

¹ 2003 (2) KLT 1089 (SC)

is in the police station. Learned Public Prosecutor, on instructions, reported that the subject vehicle will be deposited before the Court.

Accordingly, the Criminal Revision Case is allowed. The petitioner is given interim custody of the vehicle viz., Goods Carriage –MMV (Eicher Pro) bearing No. TS36T0193 on furnishing a personal bond of Rs.2,00,000/- (Rupees Two Lakhs Only) together with two sureties in a likesum to the satisfaction of the learned Judicial First Class Magistrate, Bellampally and on further conditions that:

- (a) the petitioner shall produce the vehicle before the Trial Court as and when directed by the Trial Court,
- (b) the petitioner shall not alter the condition of the vehicle without prior permission of the Court and
- (c) the petitioner shall not alienate or otherwise dispose of the vehicle without prior permission of the Court.



N.BALAYOGI,J

Dt:20.09.2018

Note:Furnish copy by 24.09.2018

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