

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 43798 of 2018

ORDER:

1) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the respondents in seizing the Lorry bearing No. AP 16 TY 8839 of the petitioner without following the procedure prescribed and detains the same without releasing it, as illegal, improper and incorrect.

2) The averments in the affidavit filed in support of the writ petition would show that the Lorry bearing No. AP 16 TY 8839, which is of 2011 model, was purchased by Sankula Mahalaxmaiah. After complying with the requirements, the vehicle was being used for transporting the goods. Subsequently, the petitioner herein is said to have purchased the said vehicle, by way of an agreement of sale dated 02.08.2018 with his own funds. While things stood thus, on 13.08.2018 the lorry driver is said to have taken the vehicle without the knowledge of the petitioner, which was seized by the police on the allegation that it was being used for transporting the sand illegally to Chennai. A case in Crime No.301 of 2018 for the offences punishable under Sections 379 and 420 IPC and Section 21 (iv) of Mines and Minerals

(Development and Regulation) Act and Section 3 of the Prevention of Damage to Public Property Act, 1984, came to be registered against the driver and cleaner of the lorry. Basing on the confession of the driver and cleaner, the petitioner was also shown as an accused in the above crime. Challenging the action of the authorities in seizing the vehicle, without following due process as per G.O.Ms.No.37, dated 14.03.2016 Industries and Commerce (M.II) Department and also questioning the action of the authorities in not producing the vehicle before the Court concerned, the present writ petition came to be filed.

3) Sri T.Nagarjuna Reddy, learned counsel appearing for the petitioner, mainly submits that though the vehicle was seized on 13.08.2018 pursuant to a crime registered, till date the same is not produced before the Court.

4) The Assistant Government Pleader representing the third respondent, did not dispute the same, as such, this Court on 05.12.2018, directed the Circle Inspector of Police to be present before this Court on 10.12.2018, along with relevant records to explain as to why the vehicle has been detained illegally from 13.08.2018.

5) Today, the Circle Inspector of Police appeared before this Court, along with the entire case record relating to the

crime. He admitted seizure of the vehicle on 13.08.2018 and not producing the same before the Court concerned, but however pleaded that a letter has been addressed to the Mines Department, requesting them to indicate as to what is to be done with the vehicle.

6) Smt. M.Vidyavathi, learned Government Pleader for Mines and Geology, would submit that the delay in producing the vehicle was due to wrong interpretation of law, and that it was neither willful nor wanton. She further submits that having intercepted the vehicle on 13.08.2018, the police officer ought to have produced the same before the concerned, when the record shows that it was seized in the crime.

7) It appears that on 05.12.2018 when this Court ordered the presence of the Circle Inspector of Police, the vehicle appears to have been produced before the concerned Court. Form-60, list of properties sent to the Magistrate, is placed on record, to show that this vehicle was sent to Magistrate's Court at Sullurpet on 05.12.2018. One does not know the condition of the vehicle, which is being kept in the police station for nearly 3 1/2 months.

8) Having regard to the above and on a belief that the vehicle is in the same condition as it was on the day when it

was seized, the petitioner shall make an application before the concerned Court seeking release of the vehicle enclosing documents showing his ownership, in which event the vehicle shall be released after verifying the condition in which the vehicle is and on such terms and conditions, as the Court thinks fit.

9) Accordingly, the writ petition is disposed of. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

10.12.2018
gkv



JUSTICE C. PRAVEEN KUMAR

