

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**CRIMINAL REVISION CASE Nos.3436 & 3277 of 2018****COMMON ORDER:**

These Criminal Revision Cases are arising out of the Order dt. 12.11.2018 in CrI.M.P.No.2084 of 2018 in Crime No.90 of 2018 (Sarubujjili Police Station) passed by the Judicial Magistrate of First Class, Amadalavlasa.

The petitioner Nos. 1 to 13 are the owners of the lorries in Crime No.90 of 2018 on the file of Sarubujjili Police Station. The said crime was registered against the accused/petitioners under Sections 447, 379 of IPC and Section 21 (1) of MMDR Act, 1957 and 35(2) of A.P. Water Land Tress, 2002. During investigation, the Police officials have seized those vehicles from them and kept in their custody. The petitioners have filed petitions before the trial Court under Section 457 of Cr.P.C., for release of those crime vehicles for their use. Their contention is that if the vehicles are kept idle without moving, they would be spoiled and therefore, they are ready to offer sufficient sureties for their release.

The trial Court has dismissed the applications filed by them under Section 457 Cr.P.C. on two grounds. Firstly, it is on the ground that investigation has not yet been completed and secondly the accused are not apprehended.

Heard learned counsel for the petitioners and the learned Additional Public Prosecutor.

Section 457 Cr.P.C., deals with the Procedure by police upon seizure of property. According to it, whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this Code, and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession or if such person cannot be ascertained, respecting the custody and production of such property. If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit and if such person is

unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim to appear before him and establish his claim within six months from the date of such proclamation.

Learned counsel for the petitioners submits that the police after seizing the property have produced the same before the Magistrate.

In view of the provisions under Section 457 Cr.P.C., the learned Magistrate may deliver the property to the petitioners herein, who are the owners of the property, subject to production of the same whenever required by the Court, subject to furnishing sufficient sureties.

Learned Additional Public Prosecutor has submitted that since the property has been produced before the Court, the same may be returned to their owners, subject to furnishing sufficient sureties for production of the property.

Having regard to the facts and circumstances of the cases and in view of the provision under Section 457 Cr.P.C., the reasons given by the learned Magistrate for not giving custody to the petitioners i.e., the investigation is pending and the accused are not apprehended, does not appear to be proper. Therefore, the Order dt. 12.11.2018 in CrI.M.P.No.2084 of 2018 is set aside. The learned Magistrate is directed to return the property to the petitioners on their furnishing sufficient sureties to the satisfaction of the Court and on such terms as per the provisions of the Act.

With these observations, these Criminal Revision Cases are disposed of.

Miscellaneous Petition, if any pending, in this case, shall stand dismissed.

GUDISEVA SHYAM PRASAD, J

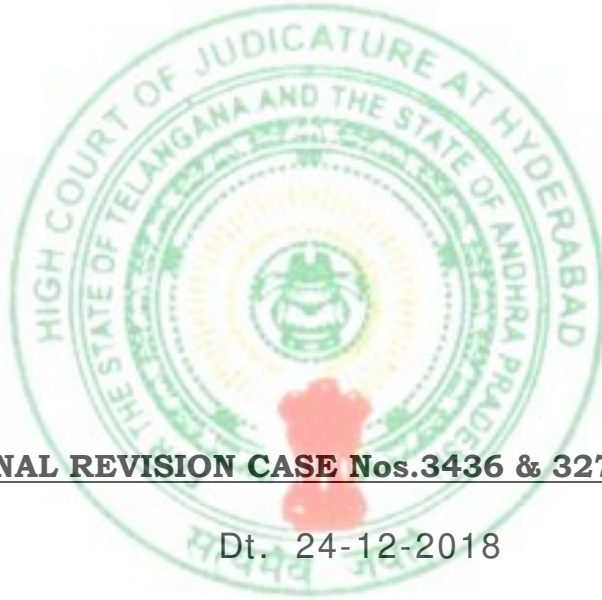
Date: 24-12-2018

Note: Issue C.C. by 26.12.2018

eha



THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD



CRIMINAL REVISION CASE Nos.3436 & 3277 of 2018

Dt. 24-12-2018

eha