

THE HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

Crl.R.C. No.313 of 2019

ORDER :

Heard learned counsel for the petitioner and learned Public Prosecutor representing the State. Perused the material available on record.

The petitioner is claimed to be the owner of the vehicle seized in Crime No.48 of 2019 of Nacharam Police Station, registered for the offences punishable under Sections 420, 379 read with 34 IPC and Section 7 of the Essential Commodities Act, where his driver was the so called accused, sought for custody of the vehicle by filing Crl.M.P.No.133 of 2019 before the V Additional Metropolitan Magistrate-cum-V Additional Junior Civil Judge, FAC IV Additional Metropolitan Magistrate, Cyberabad at L.B.Nagar and the learned Magistrate dismissed the application after hearing by the impugned order dated 19.02.2019 and present revision is maintained against it with contentions that the impugned order of the learned Magistrate is contrary to law and unsustainable and the observation that Section 6-A of the Essential Commodities Act no way enables the Court to pass any order in respect of the properties seized though the property was already seized and deposited and accepted in the present crime for sustainability of the application under Section 451 Cr.P.C., leave about otherwise even once intimated about seizure to the Court in the crime to invoke Section 457 Cr.P.C. and thereby, the order is liable to be set aside.

Learned Public Prosecutor supported the impugned order of the learned Magistrate saying remedy of the petitioner if any is to

approach the Joint Collector concern under Section 6-A of the Act whereby vehicle is otherwise liable for confiscation.

Undisputedly, the property is deposited before the learned Magistrate in the present crime, which is not deposited before the Joint Collector, in any Section 6-A of the Act proceedings. Even Section 6-A of the Act proceedings are initiated if at all the vehicle is liable for confiscation that can be secured by the Joint Collector. However, once it is intimated about seizure in the present crime and deposited before learned Magistrate, who got jurisdiction. Undisputedly, it is Ashok Leyland Tanker vide registration No.AP28 V 6309 before the RTA, Ranga Reddy District. The certificate of registration under Rule 174 of the Rules 1989, the petitioner is the owner by name Syed Ariful Hassan S/o Syed Aziz Bakth of New Allapur, Borabanda, Hyderabad and Form 23 speaks about the vehicle is under hypothecation with M/s Sangeeta Singhi of Himayathnagar covered by hire purchase agreement dated 24.01.2013, there are no particulars as to the market value of the vehicle, but for the vehicle shown insured as per the copy of the policy now furnished obtained by the petitioner, for total value of Rs.3,50,000/-, which cannot be the basis in the absences of any purchase particulars or RTA valuation.

Now coming to the entitlement of custody or not of the petitioner being registered owner referred supra even vehicle under hypothecation with M/s Sangeeta Singhi, who did not chose to claim as per the expression of the Apex Court in **Sunder Bhai Ambalal Desai v State of Gujarat**¹, the articles and property

¹ AIR 2003 SC 638

otherwise impire its utility cannot be kept for a long either in police station on at Court and it is necessary and expedient to dispose of any application filed for property seized judiciously as early as possible preferably within 15 days to one month. It is observed that if the vehicles kept idle without utility, they will become junk and useless. Thereby, taking consideration of the guidelines therein as to procedure for disposal of the seized articles, currency notes, vehicle seized, liquor, narcotic drugs etc, the impugned dismissal order of the learned Magistrate is set aside and the revision petition is liable to be allowed.

Accordingly and in the result, the Criminal Revision Case is allowed directing for release of vehicle bearing No.AP 28V 6309 subject to execution of self bond for Rs.10 lakhs with furnishing of immoveable security or bank guarantee for equal sum and undertaking to produce the vehicle as and when required before the Court of law and shall not impair the utility, but for use and shall not transfer or create any third party interest in any manner and learned Magistrate cause endorse to the seizure and only interim custody and cause entry in the C book about the pendency of the crime for release after taking photographs and from obtaining the undertaking including the consent from the accused of not raising any objection, if at all vehicle not produced during trial to rely on the photographs and panchanama.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

29.03.2019.
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