

HON'BLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.8152 of 2019

ORDER :

This Criminal Petition is filed under Section 482 Cr.P.C. seeking to quash the order, dated 03.07.2019 in CrI.M.P.No.574 of 2019 in Cr.No.52 of 2019 on the file of the Addl. Judl. I Class Magistrate, Ramannapet.

2. Brief facts of the case are that the de facto complainant gave a complaint against A1 to A5 and another alleging that they formed into an unlawful assembly with an intention to commit attempt to murder of his brother as his brother talked over phone with the wife A1 and they beat his brother indiscriminately with sticks, as a result of which, his brother received bleeding injuries over his head and other parts of the body. Basing on the complaint lodged by the de facto complainant, S.H.O. of Valigonda P.S. registered a case in Cr.No.52 of 2019 against A1 to A5 and another for the offences punishable under Sections 341, 143, 147 and 307 r/w 149 IPC. During the course of investigation, police seized the Motor cycle bearing No. TS 07 FP 9733 alleging that the said vehicle has been used in the above crime and since then, the vehicle is in the custody of Police of Valigonda.

3. The petitioner filed CrI.M.P.No.574 of 2019 for grant of interim custody of the Motor cycle, which was seized in the above crime. The learned Magistrate, vide impugned order, dismissed the petition. Hence, this Criminal Petition.

4. Learned counsel for the petitioner submits that the petitioner is the owner of the vehicle and if the vehicle is not released, he cannot do his job. He further submits that if the vehicle is exposed to air, sun and rain, there is every possibility of the vehicle getting damaged and hence, seeks interim custody of the vehicle.

5. Learned Additional Public Prosecutor though opposed the petition, but did not dispute the ownership of the vehicle.

6. In **SURENDERBHAI AMBALAL DESAI V STATE OF GUJARAT** ¹, the Apex Court has laid down that in case of vehicle seized during investigation, it should not be allowed to deteriorate by being kept unused and unattended in the premises of the Police Station. Therefore, the vehicle has to be entrusted to the interim custody of the petitioner subject to certain conditions.

7. Since there is no dispute with regard to the ownership of the vehicle and having regard to the principles laid down by the Apex Court in the decision stated supra, I am inclined to grant interim custody of Motor Cycle bearing No.TS 07 FP 9733, which was seized in Cr.No.52 of 2019 of Valigonda Police Station, in favour of the petitioner on the following conditions:

1. The petitioner shall execute a personal bond for a sum of Rs.60,000/- (Rupees sixty thousand only) with one

¹ (2002) 10 SCC 283

surety for a like sum to the satisfaction of the Addl. Judl. I Class Magistrate, Ramannapet.

2. The petitioner shall deposit the original Registration Certificate of the vehicle in the Court. However, the trial Court shall issue a certified copy of the registration certificate to the petitioner so that no inconvenience is caused to it while using the vehicle.

3. The petitioner shall give an undertaking to produce the vehicle as and when required either by the Investigating Agency or the Court and also give an undertaking that it will not alienate, encumber or alter the physical features of the vehicle.

8. Accordingly, the Criminal Petition is disposed of. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

DATED: 16.12.2019.

Hsd

JUSTICE G.SRI DEVI



