

THE HON'BLE JUSTICE G.SRI DEVI

CRIMINAL REVISION CASE No.1482 of 2019

ORDER:

This Criminal Revision Case, under Sections 379 and 401 of the Code of Criminal Procedure, 1973, is filed aggrieved by the order, dated 14.11.2019 passed in CrI.M.P.No.484 of 2019 in Crime No.89 of 2019 by the Additional Judicial Magistrate of First Class, Sircilla.

2. Heard the learned counsel for the petitioner/accused and the learned Additional Public Prosecutor appearing for the respondent-State.

3. On credible information about illegal transportation of sand, the Sub-Inspector Police, Rajanna Sircilla, along with staff visited the suspected place and conducting vehicle checking at the outskirts of Peddalingapur Village about 4:30 hours, the accused persons proceeding with two sand loaded tippers and on noticing the police, the accused persons escaped from the spot by leaving the tippers. On observation, those tippers were filling with sand without having any valid documents. The police seized the said tippers under the cover of panchanama in the presence of panchas and thereafter, shifted the tippers to PS Ellanthakunta and registered a suo-motu case in Crime No.89 of 2018 under Section 379 IPC and Section 21 (4) of the Mines and Minerals Act, 1957 and Section 3 of the Prevention of Damage to the Public Property Act.

4. The petitioner claiming himself to be the owner of Eicher Van bearing registration No.TS-10-UA-2769 filed CrI.M.P.No.484 of 2019 before the Additional Judicial Magistrate of First Class,

Sircilla, seeking interim custody of the said vehicle. By an order, dated 14.11.2019, the learned Magistrate rejected the application. Challenging the same, the present revision case is filed.

5. Learned counsel for the revision petitioner submits that there is every possibility of the vehicle getting damaged, if the same is kept exposed to air, sun and rain at the Court premises and hence, seeks interim custody of the vehicle. He further submits that the respondent-police failed to comply with the procedure contemplated under G.O.Ms.No.3, as amended through G.O.Ms.No.15, dated 19.02.2015.

6. On the other hand, learned Additional Public Prosecutor though opposed the application, but did not dispute the ownership of the vehicle.

7. In ***Surenderbhai Ambalal Desai v. State of Gujarat***¹, the Apex Court has laid down that in case of vehicles seized during investigation, they should not be allowed to deteriorate by being kept unused and unattended in the premises of the Police Stations. Therefore, the vehicle has to be entrusted to the interim custody of the petitioner subject to appropriate conditions.

8. Since there is no dispute with regard to ownership of the vehicle and having regard to the principles of law laid down by the Apex Court in the decision stated supra, I am inclined to grant interim custody of Eicher Van bearing registration No.TS-10-UA-2769, which was seized in Crime No.89 of 2019 of Ellanthakunta Police Station, in favour of the petitioner on the following terms:

¹ (2002) 10 SCC 283

i) The petitioner shall execute a personal bond for Rs.4,00,000/- (Rupees four lakhs only) with one surety for a like sum to the satisfaction of the Additional Judicial Magistrate of First Class, Sircilla.

ii) Further, the petitioner shall also deposit an amount of Rs.25,000/- (Rupees Twenty five thousand only) before the Court concerned towards penalty as contemplated in Rule 13 (2) of the Telangana State Sand Mining Rules, 2015, issued in G.O.Ms.No.3, dated 08.01.2015.

iii) 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 him while using the vehicle.

iv) 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 he will not alienate, encumber or alter the physical features of the vehicle.

9. With the above direction, the Criminal Revision Case is disposed of.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

JUSTICE G.SRI DEVI

26th December, 2019
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Date:26.12.2019

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