

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION No.3808 of 2020

ORDER:

This writ petition is filed questioning the action of respondents in detaining the TVS NTORQ 125 Motor Cycle bearing registration No.TS07 GG 4717 of the second petitioner/owner and to declare the same as illegal, arbitrary and unconstitutional.

2. Heard the learned counsel for the petitioners and the learned Assistant Government Pleader for Home for respondents 1 to 3.

3. The petitioners herein are driver and owner of the vehicle in question. The case of the petitioners is that 2nd petitioner is the owner of the vehicle in question and that on 01.02.2020 at about 23.15 hours, the vehicle was driven by the 1st petitioner and when the 1st petitioner reached Gachibowli Junction, near Plot No.20, within the limits of Gachibowli Traffic Police jurisdiction, the 3rd respondent and other constables who were deployed there to check vehicles and to determine whether the drivers of those vehicles were in inebriated condition or not, stopped and subjected the 1st petitioner to breath analyzer test and alleged that he is in an inebriated state and seized his vehicle, and that the said vehicle is presently lying at Gachibowli Traffic Police Station in the open space and he was also issued with e-challan mentioning violations under Sections 185 (a) and 130/177 of the Motor Vehicles Act, 1988 (for short, 'the M.V.Act'), which are not applicable to drunk and drive cases. The grievance of the petitioners is that the 3rd respondent has no jurisdiction to detain his vehicle.

4. Learned Assistant Government for Home, on instructions, submits that the 2nd petitioner is the owner of the vehicle in question, and that on 01.02.2020 at about 23.15 hours, the vehicle was driven by the 1st petitioner and when the 1st petitioner reached Gachibowli Junction, near Plot No.20, within the limits of Gachibowli Traffic Police jurisdiction, the respondent police stopped and subjected the 1st petitioner/driver to breath analyzer test and found 111 alcohol reading and since the 1st petitioner/driver of the vehicle was not in a position to drive the vehicle and as he did not produce the relevant documents, the police authorities have taken safe custody of the vehicle temporarily and placed the vehicle at the 3rd respondent police station by exercising powers under Section 207 of the M.V.Act. Learned Assistant

Government Pleader would further submit that from the documents annexed to the writ petition, it is clear that the 2nd petitioner is the owner of the vehicle as per the certificate of registration issued by the Transport Department of Andhra Pradesh and the 1st petitioner was found driving the vehicle on the said date. He would further submit that if the petitioners/owner and driver of the vehicle in question along with their proof of identity and relevant documents of the vehicle appear before the concerned police authorities with whom the vehicle is in safe custody and on paying the prescribed fine, the vehicle would be released to the 2nd petitioner/owner of the vehicle.

5. Having regard to the above said submissions and in the peculiar facts and circumstances of the case, the petitioners/driver and owner, respectively, are directed to appear before the 3rd respondent authority with proof of their identity and relevant documents of the vehicle in question. Upon the petitioners/driver and owner of the vehicle approaching the 3rd respondent or other official, who has the safe custody of the vehicle in question and making an application for release of the vehicle together with relevant documents, the said authority shall consider the same and release the vehicle to the 2nd petitioner/owner forthwith by collecting fine as prescribed under the M.V.Act for non-production of documents, other violations and also if such vehicle is not involved in any other case.

6. Subject to the above observation, the Writ Petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE T.VINOD KUMAR

Date:12.03.2020
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