

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION No.4146 of 2020

ORDER:

This writ petition is filed questioning the action of respondents in detaining the Honda Activa 3G II Electric ASI Grey Colour Motor cycle bearing registration No.TS 08 EX 0546 of the petitioner/owner and to declare the same as illegal, null, void and arbitrary.

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

3. The case of the petitioner is that she is the owner of the vehicle in question, and that on 01.01.2020, at about 04:07 hours, the vehicle was driven by one Naga Raju and when the said Naga Raju reached Cyber Gate Way, Gachibowli, within the limits of Madhapur 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 driver Naga Raju 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 Madhapur 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 petitioner is that the 3rd respondent has no jurisdiction to detain his vehicle.

4. Learned Assistant Government Pleader for Home, on instructions, submits that the petitioner is the owner of the vehicle, but that on 01.01.2020, at about 04:07 hours, the vehicle was driven by one Naga Raju and when the said Naga Raju reached Cyber Gate Way, Gachibowli, within the limits of Madhapur Traffic Police jurisdiction, the respondent police stopped and subjected the driver to breath analyzer test and found 68 alcohol reading and since the said Naga Raju/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 petitioner is the owner of the vehicle as per the certificate of registration issued by the Transport Department of Telangana and one Naga Raju was driving the vehicle on the said date. He would further submit that if the petitioner/owner and the 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 petitioner/owner of the vehicle.

5. It is seen from the record that the petitioner herein, who is the owner of the vehicle, has approached this Court, but the driver of the vehicle who was found driving the vehicle at the relevant point of time has not approached this Court.

6. Having regard to the above said submissions and in the peculiar facts and circumstances of the case, the petitioner/owner is directed to appear before the 3rd respondent authority along with the driver of the vehicle with proof of their identity and relevant documents of the vehicle in question. Upon the petitioner/owner and the driver 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 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.

7. 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
grk