

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION No.4373 of 2020

ORDER:

This writ petition is filed questioning the action of respondents in detaining the GLE 250 D4 Matic BSIV Motor cycle bearing registration No.TS 07 GH1818 of the petitioner company/owner and to declare the same as illegal, arbitrary and unconstitutional.

2. Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Home for respondents 1 to 4.

3. The case of the petitioner company is that it is the owner of the vehicle in question, and that on 27.01.2020, at about 11:00 P.M, the vehicle was driven by one Abhiram and when the said Abhiram reached the Parvat Nagar locality, within the limits of Madhapur Traffic Police jurisdiction, the 4th 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 Abhiram 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 company is that the 4th respondent has no jurisdiction to detain his vehicle.

4. Learned Assistant Government for Home, on instructions, submits that the petitioner company is the owner of the vehicle, but on 27.01.2020, at about 11:00 P.M, the vehicle was driven by one Abhiram and when the said Abhiram reached the Parvat Nagar locality, within the limits of Madhapur Traffic Police jurisdiction, the respondent police stopped and subjected the driver to breath analyzer test and found 137 alcohol reading and since the said Abhiram/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 4th 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 company is the owner of the vehicle as per the certificate of registration issued by the Transport Department of Telangana and one Abhiram was driving the vehicle on the said date. He would further submit that if Iqbal Singh Sardar representing the petitioner company/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 Iqbal Singh Sardar representing the petitioner company/owner.

5. It is seen from the record that petitioner-company herein represented by one Iqbal Singh Sardar, 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, Mr.Iqbal Singh Sardar representing the petitioner company/owner is directed to appear before the 4th 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 company represented by one Iqbal Singh Sardar/owner and the driver of the vehicle approaching the 4th 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 Iqbal Singh Sardar representing the petitioner company/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
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