

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION No.4953 of 2020

ORDER:

This writ petition is filed questioning the action of respondents in detaining the Activa 3G Motor Cycle bearing registration No.TS15-EF-0275 of the 2nd petitioner/owner and to declare the same as illegal, null, void and arbitrary.

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

3. The case of the petitioners is that the 2nd petitioner is the owner of the vehicle in question, and that on 11.02.2020, at about 20:57 hours in the night, the vehicle was driven by the 1st petitioner and when he reached Moosapet, within the jurisdiction of Balanagar Traffic Police Station, the 3rd respondent-Station House officer, Balanagar Traffic Police Station 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 him to breath analyzer test and alleged that he is in an inebriated state and seized the vehicle, and that the said vehicle is presently lying at Balanagar Traffic Police Station in the open space and he was also issued with e-challan mentioning violations under Sections 185 (a), 130/177 and Section 207 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 the vehicle in question.

4. Learned Assistant Government for Home, on instructions, submits that the 2nd petitioner is the owner of the vehicle, but on 11.02.2020 at about 20:57 hours, in the night, the vehicle was driven by the 1st petitioner and when he reached Moosapet, within the limits of Balanagar Traffic Police jurisdiction, the respondent police stopped and subjected the 1st petitioner/driver to breath analyzer test and found 135 alcohol reading and since the 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 Telangana and the 1st petitioner was driving the vehicle on the said date. He would further submit that if the petitioners/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 2nd petitioner/owner of the vehicle.

5. It is seen from the record that the 2nd petitioner herein, who is the owner of the vehicle and the 1st petitioner/driver of the vehicle, who is found driving the vehicle at the relevant point of time, have approached this Court.

6. Having regard to the above said submissions and in the peculiar facts and circumstances of the case, the 2nd petitioner/owner is directed to appear before the 3rd respondent authority along with the 1st petitioner/driver of the vehicle with proof of their identity and relevant documents of the vehicle in question. Upon the petitioners/owner and 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 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.

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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