

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION No.5281 of 2020

ORDER:

Questioning the action of the 3rd respondent in detaining the petitioner's vehicle bearing registration No.TS07 BDTR 0340, the present writ petition is filed.

2. The case of the petitioner is that, the petitioner is the owner of the vehicle in question and that on 05.02.2020 at 19.48 hours, when the petitioner was returning to his house after attending a function, at Narsapur X Road, within the jurisdiction of Bala Nagar Traffic Police, 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 him and subjected him 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 the 3rd respondent Police Station in the open space and he was also issued with e-challan mentioning violations under Sections 185(a), 130/177 and 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 petitioner is that the 3rd respondent has no jurisdiction to detain his vehicle.

3. Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Home, appearing for the respondents.

4. Learned Assistant Government Pleader for Home appearing for respondents states that, on being stopped by the respondent police for checking drunk and drive, since the petitioner was not in a position to drive the vehicle and as he did not produce the relevant documents, the police authorities have taken 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 on production of the documents and paying prescribed fine, the vehicle would be released to the petitioner.

5. In so far as the police authorities taking custody of the vehicle on the driver being found in inebriated condition, this Court in W.P.No.2361 of 2019 observed that 'Even if the driver on that particular day was unable to drive the vehicle, that does not mean that respondents can retain the vehicle.'

6. Having regard to the above, the petitioner is directed to appear before the 3rd respondent with documents of the vehicle in question, along with proof of his identity. Upon the petitioner approaching the 3rd respondent or other official, who has the 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 forthwith by collecting the fine as prescribed under the M.V. Act for non-production of the documents, other violations and also if such vehicle is not involved in any other case.

7. Subject to the above observations, 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

GJ/GRK