

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF MAY
TWO THOUSAND AND TWENTY

PRESENT

HON'BLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION No. 5855 OF 2020

Between:

J. Kiran Kumar, S/o. J. Ganesh, Aged about 40 years, R/o. Flat No. 107, City Homes, H.No. 3-5-574, Himayathnagar, Hyderabad.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Home Department, Secretariat, Hyderabad
2. The Commissioner of Police, Cyberabad Commissionerate, Gachibowli, Hyderabad
3. The Station House Officer, Traffic, Madhapur, Cyberabad, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the 3rd respondent in seizing and detaining the petitioner's Creta Car bearing Reg.No.TS-07-FU-3633 on 12/2/2020 on the ground of committing the offence of Drunken Drive, as being illegal, arbitrary, unjust.

IA No. 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondent No.3 herein to forthwith release the petitioner's Creta Car bearing Reg.No.TS-07-FU-3633, pending disposal of the main Writ Petition.

Counsel for the Petitioner: SRI N. SREENIVASA YADAV

Counsel for the Respondents: AGP FOR HOME

The Court made the following: ORDER

HON'BLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION NO.5855 OF 2020

ORDER:

The present writ petition is filed to declare the action of Respondent No.3 in detaining the vehicle bearing registration No. TS 07 FU 3633 of the petitioner, as being illegal, arbitrary, and constitutional with a consequential relief to direct the 3rd respondent to release the vehicle forthwith.

2. The matter is taken up for hearing today through video conferencing. Heard learned counsel for the petitioner and learned Assistant Government Pleader for Home for respondent Nos.1 to 3.

3. The case of the petitioner is that, the petitioner who is owner of the vehicle and on 12.02.2020, when the petitioner was moving in the area falling under the jurisdiction of Madhapur Traffic Police Station, 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.

4. Learned Assistant Government for Home, on instructions, submits that the petitioner was found driving the subject vehicle on 12.02.2020 at about at 21:59 hrs., when he reached the place near Khanamet junction, falling under the Madhapur Traffic Police Station area jurisdiction, the respondent police stopped and subjected the petitioner to breath analyzer test and found the alcohol reading above the permitted limit and since the 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. He would further submit that if the petitioner appears before the concerned police authorities with whom the vehicle is in safe custody, along with his proof of identity and relevant documents of the vehicle and on paying the prescribed fine, the police authorities would be release the vehicle 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 said submissions and in the peculiar facts and circumstances of the case, the petitioner is directed to appear before the 3rd respondent authority with proof of his identity and relevant documents of the vehicle in question. Upon the petitioner 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 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.

SD/-I.NAGALAKSHMI
ASSISTANT REGISTRAR

//TRUE COPY//

CR
SECTION OFFICER

To,

1. The Principal Secretary, Home Department, State of Telangana, Secretariat, Hyderabad
2. The Commissioner of Police, Cyberabad Commissionerate, Gachibowli, Hyderabad
3. The Station House Officer, Traffic, Madhapur, Cyberabad, Hyderabad.
4. One CC to Sri. N. Sreenivasa Yadav, Advocate [OPUC]
5. Two CCs to GP for Home, High Court for the State of Telangana. [OUT]
6. Two CD Copies

Prk

Prk

HIGH COURT

DATED:07/05/2020

ORDER

WP. No. 5855 of 2020



Disposing of the WP.
without costs.

⑤
13/5/20
J/K