

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**MONDAY, THE TWENTY SIXTH DAY OF JULY
TWO THOUSAND AND TWENTY ONE**

PRESENT

THE HONOURABLE SRI JUSTICE K.LAKSHMAN

CRIMINAL PETITION NO: 5698 OF 2021

Between:

Ganaboina Venkatesh, S/o. Kataiah, Aged about 25 Years, Occ. Business,
R/o.1-6-168, Hanummawada, Bhongir Town, Yadadri- Bhongir District.

...Petitioner

AND

The State of Telangana, represented by its Public Prosecutor, High Court of
Telangana, Hyderabad Police Station Bhongir Rural.

...Respondents/Complainant

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to set aside quash the order passed in Cri.MP.No. 220 of 2020 in PRC. No. 27 of 2020 in Cr. No. 19 of 2020 in the Court of the Additional Judicial First Class Magistrate, at Bhongir, by release the petitioner's property in Cr.No 19 of 2020 i.e.Motor Cycle Hero Splendor with Registration No- AP 24 AW 1513, 2) Real Me Smart Phone 3) MOTO Company Smart Phone forthwith to the petitioner.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri Baddam Narsimha Reddy, Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent.

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No.5698 OF 2021

ORDER:

This Criminal Petition is filed under Section 482 of Cr.P.C., to quash the order dated 07.10.2021 in CrI.M.P.No.220 of 2020 in PRC.No.27 of 2020 passed by the Principal Judicial First Class Magistrate, Bhongir.

2. Heard learned counsel for the petitioner and learned Public Prosecutor. Perused the record.

3. The petitioner herein is accused in PRC.No.27 of 2020 and he is the owner of seized property i.e., (i) motorcycle Splendor bearing registration No.AP-24-AW-1513, (ii) Real Me smart phone and (iii) Moto company smart phone, in the said crime. The offence alleged against the petitioner is under Section 395 of IPC. The Police have seized the said property in Crime No.19 of 2020.

4. The petitioner, claiming to be the owner of the said property, filed an application under Section 451 of Cr.P.C., vide CrI.M.P.No.220 of 2020 seeking to release the said property. The Court below, vide impugned order, dismissed the said application on the ground that the seized vehicle was used in commission of offence and therefore, there is every chance that the owner may commit the similar type of offence.

5. The Hon'ble Apex Court in **SUNDERBHAI AMBALAL DESAI V/s. STATE OF GUJARAT**¹ and this Court in catena of decisions, held that seized property has to be returned to the owner on verification of the ownership and documents and on imposition of certain terms and conditions. It was also held that keeping the seized property in the custody of Police will not serve any purpose. In the present case, the Court below, without considering the said ratio laid down by the Hon'ble Supreme Court and this Court, has dismissed CrI.M.P.No.220 of 2020 vide order dated 07.10.2020.

6. A perusal of the record would reveal that Investigating Officer already completed investigation and filed charge sheet in Crime No.19 of 2020 vide PRC.No.27 of 2020.

7. Considering the said facts, this Criminal Petition is allowed and the order dated 07.10.2021 in CrI.M.P.No.220 of 2020 in PRC.No.27 of 2020 passed by the Principal Judicial First Class Magistrate, Bhongir, is hereby quashed. The Court below is directed to release the above said seized property to the petitioner on verification of ownership and on imposition of certain conditions to its satisfaction.

1 (2002) 10 SCC 283

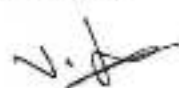
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SD/- K. SAILESHI
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Judicial First Class Magistrate, at Bhongir, Nalgonda District.
 2. Two CCs to the Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
 3. One CC to Sri Baddam Narsimha Reddy, Advocate [OPUC]
 4. Two CD Copies
- MMK



HIGH COURT

KLJ

DATED:26/07/2021

ORDER

CRLP.No.5698 of 2021



ALLOWING THE CRIMINAL PETITION

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