

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

**TUESDAY, THE NINETEENTH DAY OF APRIL  
TWO THOUSAND AND TWENTY TWO**

**PRESENT**

**THE HONOURABLE SRI JUSTICE K.LAKSHMAN**

**Criminal Revision Case No. 293 of 2022**

Revision filed under Section 397 & 401 of Cr.P.C. to set aside the docket order dated 29.03.2022 passed in Cr.I.M.P.No.202 of 2022 in Cr.No.169 of 2022 in C.C.No.4366 of 2021 on the file of the III Addl. Metropolitan Magistrate-Cum-III Addl. Junior Civil Judge, Cyberabad at L.B.Nagar.

**Between:**

Shaik Hussain, S/o Mohd. Ghouse, aged about 38 Yrs., Occ. owner of Vehicle R/o H.No.2-4-151, Ward No.151, Sajeedpura, Siddipet, Telangana State.

**...Petitioner.**

**AND**

The State of Telangana, Through S.H.O., Medipally Police Station Cyberabad Commissionerate, rep. by its Public Prosecutor, High Court for the State of Telangana at Hyderabad.

**...Respondent/Complainant.**

**IA NO: 1 OF 2022**

Petition under Section 451 Cr.P.C. praying that in the circumstances stated in the grounds filed in the revision case, the High Court may be pleased to release the petitioner vehicle Mahindra Bolero Vehicle bearing No.TS 36 T 1719 which was seized in C.C.No.4366 of 2021 on the file of III Addl. Metropolitan Magistrate Court at LB Nagar by permitting the petitioner to furnish the third party surety worth of vehicle before the III Addl. Metropolitan Magistrate Court at L.B.Nagar, pending disposal of above Cr.I.R.C.

**Counsel for the Petitioner: Sri T.Kistaiah.**

**Counsel for the Respondent: The Public Prosecutor.**

**The Court made the following: ORDER**

**HON'BLE SRI JUSTICE K. LAKSHMAN**

**CRIMINAL REVISION CASE No.293 OF 2022**

**COMMON ORDER:**

The present Criminal Revision is filed to set aside the order dated 29.03.2022 in CrI.M.P.No.202 of 2022 in Cr.No.169 of 2022 in C.C. No.4366 of 2022 passed by the learned III Additional Metropolitan Magistrate - cum - III Additional Junior Civil Judge, Cyberabad at L.B. Nagar. The offences alleged against the petitioner herein are under Section 11(1) (a), 11 (1) (d) and 11(1) (e) of the Prevention of Cruelty to Animals Act, 1960 (for short 'the Act').

2. Heard Mr. T. Kistaiah, learned counsel for the petitioner, and the learned Assistant Public Prosecutor appearing on behalf of respondent - State, and perused the material on record.

3. The petitioner herein is the registered owner of the Crime Vehicle (Mahindra Bolero) bearing registration No.TS 36 T 1719, which was seized by the Station House Officer, Medipally Police Station, Rachakonda Commisionerate in Crime No.169 of 2022 registered for the aforesaid offences against the accused therein. After completion of investigation, the Investigating

Officer, has filed charge sheet and the same was taken on file vide C.C.No.4366 of 2022. The petitioner herein is not the accused in the said case.

4. The petitioner herein claiming to be the owner of the said crime vehicle filed an application under Section - 451 of Cr.P.C. vide Cr.I.M.P. No.202 of 2022 in the said C.C. The learned Magistrate dismissed the said application vide order dated 29.03.2022 on the grounds that the subject vehicle was involved in transportation of animals and therefore, the said vehicle is not liable to be kept as security till disposal of the case in view of the provisions of Section - 38 (1) of the Act, Sections - 6 and 10 of the A.P. Prohibition of Cow Slaughter and Animals Preservation Act, 1977 and Section 56 of the Animals Transporting Rules etc.

5. Learned counsel for the petitioner would submit that the said order is contrary to the Rules and also the principle laid down by the Apex Court in **Sunderbhai Ambalal Desai Vs. State of Gujarat**<sup>1</sup>. There is no embargo on the learned Magistrate in giving interim custody of the said vehicle. There is no dispute that Union of India by invoking its powers under

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<sup>1</sup> 2003 (1) GLH 307

Section 38(1) of the Act, formulated the above said Rules. Rule 5 of the Rules deals with execution of bond. As per Rules 5(4) of the Rules, where a vehicle has been involved in an offence, the Magistrate shall direct that the vehicle be held as a security. Therefore, there is no embargo upon the Magistrate in giving interim custody of the vehicle.

5. It is relevant to note that the Apex Court in **Sunderbhai Ambalal Desai** (supra) categorically held that keeping the seized vehicles with the Police or Courts would not serve any purpose and the same have to be returned to the owners on verification of ownership documents and on imposition of any conditions.

6. Considering the said Rules and also principle laid down by the Apex Court in **Sunderbhai Ambalal Desai** (supra) and several other judgments, the Gujarat High Court vide order dated 05.09.2018 in R/Special Criminal Application No.7642 of 2018 granted interim custody of the vehicle seized to the owner of the vehicle on imposition of certain conditions. This Court agrees with the principle held by the Gujarat High Court. According to this Court, there is no embargo on the learned Magistrate in giving interim custody of the vehicle. Learned Magistrate has to ensure that the owner of the vehicle shall

produce the said vehicle as and when it is required before the Investigating Officer and also before the Court below, as the case may be, and the learned Magistrate has to verify the ownership of the subject vehicle and give interim custody of the subject vehicle to the owner on imposition of certain conditions such as production of original Registration Certificate, furnishing undertaking by the owner stating that he will not alienate, transfer or part with the possession of the vehicle or create any charge over the vehicle, or change the nature and physical features of it, during pendency of the crime or Calendar Case etc., On imposition of said conditions, the Court below has to give interim custody of the subject vehicle to the owner of the vehicle. Learned Magistrate has not considered the said aspects in the impugned order. Therefore, the impugned order is liable to be quashed.

7. It is relevant to note that the Apex Court considering the difficulties being faced by the farmers/owners of the animals advised Union of India to repeal the said Rules. It appears the said advice was not considered by the Union of India.

8. Be that as it may, in view of the above discussion, this Criminal Revision Case is allowed setting aside the order dated 29.03.2022 in CrI.M.P.No.202 of 2022 in Cr.No.169 of 2022 in

C.C. No.4366 of 2022 passed by the learned III Additional Metropolitan Magistrate - cum - III Additional Junior Civil Judge, Cyberabad at L.B. Nagar. The matter is remanded back to the learned Magistrate with a direction to consider the same afresh and pass appropriate orders in accordance with law within one week from the date of receipt of a copy of this order and shall release the subject vehicle on verification of the ownership and also on imposition of certain conditions to its satisfaction as discussed supra.

Consequently, miscellaneous petitions, if any, pending, shall stand closed.

//TRUE COPY//

SD/- K. SRINIVASA RAO  
JOINT REGISTRAR

  
SECTION OFFICER

To,

1. The III Addl. Metropolitan Magistrate-Cum-III Addl. Junior Civil Judge, Cyberabad at L.B.Nagar.
2. The Station House Officer, Medipally Police Station, Cyberabad.
3. One CC to Sri T.Kistaiah, Advocate [OPUC]
4. Two CCs. The Public Prosecutor, High Court for the State of Telangana at Hyderabad.
5. Two CD Copies

JCK



HIGH COURT

KL,J

DATED:19/04/2022

ORDER

CRLRC.No.293 of 2022



Allowed and remanding the Criminal Revision Case.

(7) VW  
7/6/22