



HIGH COURT OF ANDHRA PRADESH
MONDAY ,THE SEVENTEENTH DAY OF APRIL
TWO THOUSAND AND TWENTY THREE

PRSENT

THE HONOURABLE MS JUSTICE B S BHANUMATHI
CRIMINAL REVISION CASE NO: 30 OF 2023

Between:

1. GUNDAM CHANDRA MOULI S/ o. G. Ayyarma aged 40 years, H.No15-09-13-57, Maruthi Nagar, Nandikotkur Town and Mandal, Kurnool District

...PETITIONER(S)

AND:

1. STATE REPRESENTED BY THE STATION HOUSE OFFICER jupadu bungalow ps, through public prosecutor high court of AP
2. Shaik Farooq , S/ o. Late Mabasha, R/ o. Thangadancha Village, Jupadubanglow Mandal, Kurnool District

...RESPONDENTS

Counsel for the Petitioner(s): HARANADHA RAJU KATTA

Counsel for the Respondents: PUBLIC PROSECUTOR (AP)

The Court made the following: ORDER



THE HON'BLE Ms. JUSTICE B.S.BHANUMATHI

Criminal Revision Case No.30 of 2023

ORDER:

This Criminal Revision Case is preferred against the order, dated 09.09.2022, passed in CrI.M.P.No.336 of 2022 on the file of the Court of the learned I Additional Sessions Judge, Kurnool, in Crime No.15 of 2022 of Jupadu Bungalow Police Station, whereby the petition filed under Section 451 of the Code of Criminal Procedure, 1973, seeking interim custody of auto bearing No.AP 21 TZ 2293 was dismissed.

2. Heard learned counsel for the petitioner and the learned Assistant Public Prosecutor appearing for the 1st respondent-State.

3. The petitioner is the owner of the vehicle, i.e., Auto bearing No. AP 21 TZ 2293, which was involved in the crime registered against the respondent No.2, Shaik Farooq, for the offences under Sections 420, 366, 506 and 354(D) IPC and Sections 11 & 12 of the Protection of Children from Sexual Offences Act, 2012, on the allegation that he kidnapped a victim girl in the said vehicle and subsequently, the said vehicle was seized by the police and was kept in their custody. The petitioner being the owner of the crime vehicle sought release of the vehicle for interim custody contending



that he is the owner of the vehicle, he is no way connected with the crime and he, being the driver, has to maintain his family by running the auto. The trial Court dismissed the petition

4. Learned counsel for the petitioner submitted that the petitioner is the owner of the vehicle and has nothing to do with the commission of the offence, whereas the 2nd respondent/accused is facing trial but the trial Court has erroneously refused to give interim custody of the vehicle to the petitioner. He further submitted that if the vehicle is left unattended, its value gets diminished and the livelihood of the petitioner is lost.

5. Learned Assistant Public Prosecutor submitted that the vehicle is involved in the commission of the crime committed by the accused and submitted to pass appropriate orders.

6. Perused the record.

7. There is no dispute regarding the fact that the petitioner is the owner of the crime vehicle. Therefore, if the vehicle is left unused either in the police station or in the premises of the Court, till the trial of the case is completed, there is every likelihood of the vehicle being damaged.



8. The trial Court observed that the registration certificate of the vehicle expired 4 ½ years back and running the vehicle without renewal of registration certificate is illegal. It is further noted by the trial Court that copy of the payment receipt for renewal of registration certificate was filed, but the same appeared to the trial Court not to be genuine. It is further observed that if the vehicle is allowed to be released and the road transport authorities seize and alienate the vehicle, the material object required in the trial would not be available for evidence.

9. Learned counsel for the petitioner placed reliance on the decision in **Sunderbhai Ambalal Desai and Ors. vs. State of Gujarat**¹ and contended that if the vehicle is kept at the police station for an indefinite period would not serve any purpose.

10. The offence alleged against the 2nd respondent/accused is Section 366 IPC. It is further contended that the victim was taken in the said vehicle at the time of the commission of the offence. In the decision in **Sunderbhai Ambalal** (supra), regarding return of the property in interim custody of vehicles, it is observed as follows:

“Vehicles

15. xx xx xxLearned senior counsel Mr. Dholakia, appearing for the State of Gujarat further submitted that at present in the police station

¹ AIR 2003 SC 638



premises, number of vehicles are kept unattended and vehicles become junk day by day. It is his contention that appropriate directions should be given to the Magistrate who are dealing with such questions to hand over such vehicles to its owner or to the person from whom the said vehicles are seized by taking appropriate bond and the guarantee for the return of the said vehicles if required by the Court at any point of time.

16. However, the learned counsel appearing for the petitioners submitted that this question of handing over vehicles to the person from whom it is seized or to its true owner is always a matter of litigation and a lot of arguments are advanced by the concerned persons.

17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

18. In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company then insurance company be informed by the Court to take possession of the vehicle which is not claimed by the owner or a third person. If Insurance company fails to take possession the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchnama should be prepared.

21. However these powers are to be exercised by the concerned Magistrate. We hope and trust that the concerned Magistrate would take immediate action for seeing that powers under Section 451



Cr.P.C. are properly and promptly exercised and articles are not kept for a long time at the police station, in any case, for not more than fifteen days to one month. This object can also be achieved if there is proper supervision by the Registry of the concerned High Court in seeing that the rules framed by the High Court with regard to such articles are implemented properly."

In the cited decision, the Supreme Court further observed as follows:

"In our view, the powers under Section 451 Cr.P.C. should be exercised expeditiously and judiciously. It would serve various purposes, namely:--

1. Owner of the article would not suffer because of its remaining unused or by its misappropriation;
2. Court or the police would not be required to keep the article in safe custody;
3. If the proper panchnama before handing over possession of article is prepared, that can be used in evidence instead of its production before the Court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and
4. This jurisdiction of the Court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles."

11. Therefore, in view of the above directions, the apprehension raised by the trial Court regarding non-availability of evidence with regard to the vehicle, in case, the property is seized by the road transport authorities for not having valid registration certificate cannot be sustained. Therefore, on that ground, the prayer cannot



be rejected. What is required is due procedure as directed shall be followed before returning the property and the same would provide evidence during the course of trial.

12. Insofar as the observation regarding valid registration certificate, if there is no registration certificate, it is for the concerned authorities to take action against the person who rides the vehicle without such certificate and it will not be allowed to be plied in public place without renewed certificate. Anyhow, the petitioner is also aware that the period of earlier registration certificate expired and it was also submitted that the renewal of registration certificate was applied. Therefore, appropriate steps shall be taken immediately to get the renewal of the registration certificate, if not so far obtained. However, on that ground alone, the property cannot be kept in the custody of the Court and appropriate directions can be given while ordering return of the property. Accordingly, the impugned order is liable to be set aside.

13. In the result, the Criminal Revision Case is allowed setting aside the order, dated 09.09.2022, passed in Crl.M.P.No.336 of 2022 on the file of the Court of the learned I Additional Sessions Judge, Kurnool. The said petition is allowed. The trial Court is



directed to give interim custody of the vehicle bearing No. AP 21 TZ
2293 to the petitioner subject to the following conditions:

(i) The petitioner shall execute a self bond for the value of the vehicle to be assessed by the Motor Vehicle Inspector with one surety for a like sum to the satisfaction of the learned I Additional Sessions Judge, Kurnool;

(ii) The petitioner shall execute an undertaking that he will not alienate the said vehicle or transfer its ownership or change any physical features of the vehicle;

(iii) The petitioner shall execute an undertaking that he would produce the vehicle as and when directed by the trial Court till the case in the trial Court is disposed of;

Pending miscellaneous applications, if any shall stand closed.

B.S.BHANUMATHI, J

17.04.2023

Note:- The Registrar (Judicial) to circulate instructions to all the judicial officers to follow the directions of Supreme Court in the decisions in **Sunderbhai Ambalal Desai and Ors. vs. State of Gujarat** (AIR 2003 SC 638) and **General Insurance Council and others v. State of Andhra Pradesh and others** (2010 (6) SCC 768) with regard to return of properties seized in crimes

(B/o)
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