



Presented on : 03-08-2023
Registered on : 03-08-2023
Decided on : 04-09-2023
Duration : 1 month 1 day

**IN THE COURT OF THE PRL. DISTRICT & SESSIONS
JUDGE, AT: CHITRADURGA**

Present: **Smt. B.S. Rekha, B.A.(Law), LL.M.,**
Prl. District & Sessions Judge,
Chitradurga

Dated this the 04th day of September, 2023

CrI. Revision Petition No.81/2023

Revision Petitioner:	Sevyanaik S/o Krishnamurthy, aged about 51 years, owner of tractor trailer bearing Regn.No.KA-40/TA-8621/8622 r/o Lambani Thanda, Kodihalli Post, Adivala, Hiriyuru taluk, Chitradurga district. (By Sri H.M. Naveen, advocate)
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/versus/

Respondent:	State by Abbinahole Police. (By the Public Prosecutor, Chitradurga)
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ORDER

The revision petitioner has filed this petition U/Sec. 397 of Cr.P.C. requesting the court to set aside the order passed by Addl. Civil Judge & JMFC, Hiriyuru and to release tractor trailer bearing Reg No.KA-40/TA-

8621/8622 which is seized in Cr.no.105/2023 of Abbinahole police station in PF No.78/2023 on 25.06.2023, to the custody of petitioner.

2. It is stated in the petition that, the vehicle tractor trailer bearing Reg No.KA-40/TA-8621/8622 belongs to the petitioner, which is seized by Abbinahole police during the course of investigation in Cr.No.105/2023 for the offence punishable U/Sec.4(A), 21(1) of MMRD Act r/w/s 379 of IPC. The seizure of property was reported to the Magistrate in PF No.78/2023 on 25.06.2023. This petitioner is RC owner filed application before Addl. Civil Judge & JMFC, Hiriyuru, which was rejected. The grounds urged in the petition are that, the Trial Court erred in rejecting the application and considering the grounds urged before the Trial Court to release of tractor trailer. The main grounds on which the application was rejected is that, the said court has no jurisdiction to try the case. The earning from the said vehicle is only source of income to the petitioner to eke out the livelihood. Further it is a machinery if it is kept intact, exposed to air and light, it will be deteriorated and it will cause loss to the petitioner and the relevant and valid documents are

issued from the concerned authority and hence prayed to allow the application.

3. Heard arguments on both sides.

4. The learned PP has orally contending that the revision petition filed by the petitioner is not maintainable either in law or on facts. The order passed by the Trial Court is proper. There is transportation of sand in the seized tractor trailer and case is filed under MMRD Act. The vehicle was seized through mahazar. If the said vehicle is released in favour of the petitioner, he may change the identity of the vehicle or sell the same. Hence, prayed to dismiss the revision petition.

5. Now, the only point that arises for my consideration is :

“Whether the revision petitioner has made out sufficient grounds to allow the present revision petition?”

6. My finding to the above point is in “affirmative”, for the following stated;

REASONS

7. Perused the order copy of the Trial Court passed on I.A. on interim application filed U/Sec. 457 of

Cr.P.C. The Trial Court during reasons has observed that, the petitioner filed the application for release of the tractor trailer bearing Regn. No.KA-40/TA-8621/8622 by stating that, applicant is in need of the vehicle for daily work. If the said vehicle is placed in open yard of the police station and if it becomes rusted, he will be put to hardship. The petitioner along with application has produced RC. The Trial Court has observed that, M.M.R.D. Act does not provide a clear provision with respect to which court is empower to release vehicle and also placed reliance on the ruling in Vivek vs. State of Karnataka case and made observation that, under Section 30(b) of the Act, only Special Court is competent to order to deal with the release of vehicle and rejected the application.

8. In this case, the petitioner had produced the application, objection, and RC copies of tractor trailer, which shows that the vehicle standing in the name of Sevyanaik, i.e. petitioner herein. Though there is no mention of trailer number in PF, but there is mention of trailer attached to engine, the petitioner is also entitled for interim release of said trailer as there is no rival claimants. The Trial Court has observed that, the

Special Court has jurisdiction and no other reasons are assigned for rejection of the application. Now, this court has to come to the conclusion that, the order passed by the Trial Court needs interference. The revision petitioner has made out sufficient ground to allow the petition. Hence, I answer point No.1 in the affirmative.

9. For the foregoing reasons and my finding to above point, I proceed to pass following:

ORDER

The Criminal Revision Petition filed by revision petitioner under Section 397 of Cr.P.C. is hereby allowed.

The impugned order passed by the Addl. Civil Judge & JMFC, Hiriuru, dated 28.07.2023 in Cr.No.105/2023, of Abbinahole P.S. is hereby set aside.

The application filed by the revision petitioner U/Sec. 457 of Cr.P.C. is hereby allowed.

The concerned police is hereby directed to release tractor trailer bearing Regn. No.KA-40/TA-8621/8622 seized in PF No.78/2023 in item No.1, dated 25.06.2023 of Abbinahole police station to the interim custody of the applicant/petitioner forthwith on his executing indemnity bond for Rs.4,00,000/- with one surety for like sum on the following conditions:

1. He shall not alienate the vehicle during pendency of the case or without permission of the court.
2. He shall not change the colour and identity of the vehicle.
3. He shall produce the vehicle whenever directed by the I.O. and the Court.

The I.O. is directed to take the photographs of the vehicle with due mahazar and produce the same before the concerned court.

Send copy of this order, passed in this revision petition immediately to the Trial Court.

(Dictated to the Stenographer directly on computer system, printout corrected, signed and then pronounced by me in the Open Court on this the 04th day of September, 2023).

(B.S. Rekha)
Prl. District & Sessions Judge,
Chitradurga.