
(2001) 04 AP CK 0039

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 1583 of 2001

A. Venkatanarayana

APPELLANT

Vs

State of A.P.

RESPONDENT

Date of Decision : 23-04-2001

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 451, 457
Penal Code, 1860 (IPC) — Section 201, 302, 34

Citation : (2001) 3 ALT 130

Hon'ble Judges : R. Ramanujam, J

Bench : Single Bench

Advocate : N. Ranga Reddy, for the Appellant; Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

R. Ramanujam, J.

1. The petitioner herein is the owner of the Van bearing registration No. AP 02 T 9311, which was seized in connection with Crime No. 14 of 2000 of Rapadu Police Station registered under Sections 201, 302 r/w. Section 34 IPC.

2. The petitioner herein is not one of the accused in the said crime. When he approached the Additional Judicial I Class Magistrate, Ananthapur, for release of the said vehicle by filing CrI.M.P.No. 506 of 2001, the learned Magistrate dismissed the same. Thereupon, he filed a revision before the Addl. Sessions Judge, Ananthapur in CrI.R.P.No. 5 of 2001, which was also dismissed on the ground that the investigation in the said Crime is still pending. Hence, he filed the present petition seeking release of the said vehicle.

3. Heard the learned Counsel for the petitioner and the learned Public Prosecutor.

4. The petitioner filed the said CrI.M.P., before the learned Magistrate u/s 451 Cr.P.C. It is no doubt true that Section 451 Cr.P.C., is not attracted when the enquiry is not pending before that Court. But, Section 457 Cr.P.C., clearly applies

in such a case and the learned Magistrate ought to have considered the said CrI.M.P. treating it as one filed u/s 457 Cr.P.C.

5. Admittedly, the vehicle is not liable for confiscation even if the offence is proved. In these circumstances, the ratio¹ of the decision of this Court in B. Bheemudu v. State of A.P., applies. Following the same, the impugned orders of the Courts below are set aside and the Criminal Petition is allowed with the following directions:--

(i) That the Van bearing registration No. AP 02 T 9311 shall be released to the petitioner on his furnishing a written undertaking to the Court of the Addl. Judicial Magistrate of I Class, Ananthapur, that he will not sell, transfer or encumber the said vehicle in any manner and that he will produce the same for identification as and when called for by the said Court.

(ii) The Additional Judicial I Class Magistrate, Ananthapur, shall keep the original R.C. Book relating to the above vehicle in its custody pending trial, and

(iii) It is open to the Court of the Additional Judicial I Class Magistrate, Ananthapur, to address the concerned transport authority stating not to issue any duplicate R.C. Book to the petitioner or anybody-else claiming through or under him.