
(2013) 12 KAR CK 0028
In the Karnataka High Court
Case No : Criminal RP. No. 805 of 2013

M/s. Infants Travels Pvt. Ltd.

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 11-12-2013

Acts Referred:

Citation : (2013) 12 KAR CK 0028

Hon'ble Judges : H.S. Kempanna, J

Bench : Single Bench

Advocate : K.R. Tulsi, for the Appellant; B. Visweswaraiah, HCGP, for the Respondent

Final Decision : Allowed

Judgement

H.S. Kempanna, J.—Heard. The revision petition is taken-up for final disposal with consent of learned counsel for the petitioner and learned High Court Government Pleader.

2. This revision petition preferred by the petitioner is directed against the order dtd. 24/09/2013 passed in S.C. No. 1110/2013 by the XI Additional City Civil and Sessions Judge dismissing his application filed u/ss. 451 and 457 of Criminal Procedure Code filed praying for releasing the car bearing Registration No. KA-53-A-3629 to his interim custody.

3. It is the case of the petitioner-M/s. Infants Travels Pvt. Ltd. that they are the owners of the car bearing registration No. KA-53-A-3629. The said car had been entrusted to CW11 who is their employer for running the same on hire. The said car came to be seized by the HAL police on 11.01.2013 in connection with Crime No. 23/2013 registered for the offences punishable under Sections 148, 364, 302, 201 r/w 149 IPC. After the car came to be seized and reported to the jurisdictional Magistrate, the petitioner filed an application under Sections 451 & 457 of Cr.P.C. praying to release the vehicle to his interim custody pending disposal of the case. It was contended in the application that the petitioner is the

registered owner of the vehicle, the registration certificate stands in his name. He had no knowledge about the vehicle having been used in the commission of the offence. He has bought the vehicle by raising loan from the Bank and he has to pay installments to be Bank towards the loan by running the vehicle and earning money out of the same. The vehicle being a mechanical propelled vehicle it cannot be kept idle as otherwise it would become a junk. At present, the vehicle is in the police custody. He would abide by any conditions that may be imposed on him by the Court. Hence, he sought for release of the vehicle to his interim custody.

4. The said application was opposed by the State contending inter-alia the same is required for the purpose of identification during trial and as the identity of the same will be changed if ordered to be given to interim custody.

5. The learned trial Judge, on considering the application, rejected the same on the ground that if the vehicle is released it may not be produced before the Court for the purpose of identification. Apart from the same, there are chances of the petitioner defacing the identity of the vehicle and the prosecution may not be able to produce the vehicle at the time of trial. Accordingly, by the impugned order, rejected the application filed by the petitioner.

6. Learned counsel for the petitioner reiterating the contentions taken in the application filed further contended as the petitioner is required to pay instalments to bank towards the loan raised the vehicle be released to his interim custody and he would abide by conditions.

7. Learned HCGP supported the impugned order of the trial Judge. A perusal of the material on record reveals the petitioner is the registered owner of the car in question. Today, at the time of arguments, learned counsel for the petitioner produced before me the registration certificate of the car, which stands in the name of the petitioner. I have perused the same. A mechanically propelled vehicle as held by this Court cannot be kept idle for the reason it would loose its value. It should be put into use to make it fit to be kept in running condition. The question that arises for consideration is only whether the vehicle could be secured at the time of trial for the purpose of identification by the witnesses. Apart from the same, the request of the petitioner cannot be rejected on the ground that the prosecution may not be able to get the vehicle at the time of trial. That can be met by imposing suitable conditions on the petitioner. Since the petitioner is the registered owner which is fortified from the registration certificate, which was placed before me today, in the facts and circumstances of the case, I do not find any justification to decline the request of the petitioner to grant the vehicle to his interim custody pending disposal of the trial. Accordingly, I proceed to pass the following:

ORDER

i. The Criminal Revision Petition is allowed.

ii. The order dated 24.09.2013 passed in S.C. No. 1110/2013 by the XI Additional City Civil and Sessions Judge, Bangalore, rejecting the application filed under Sections 451 & 457 of Cr.P.C. by the petitioner is set aside. The application is allowed. The vehicle bearing registration No. KA-53-A-3629 is ordered to be released to the interim custody of the petitioner on his executing an Indemnity Bond in a sum of Rs. 1,50,000/- with one surety for the likesum to the satisfaction of the trial Judge subject to the following conditions:

- 1) He shall produce the vehicle before the Court as and when directed;
- 2) He shall not change the colour or identity of the vehicle and dispose of the same till the disposal of the case.