

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI  
THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY,  
TWO THOUSAND AND TWENTY TWO

:PRESENT:

THE HONOURABLE SRI JUSTICE D RAMESH  
CRIMINAL PETITION NO: 1000 OF 2022



**Between:**

Bathula Lakshmi Narayana, S/o Venkateswarlu, aged 27 years, Owner of the Crime Vehicle Goods Carriage HMV Bearing No.AP 07 TT 8649, R/o. D.No.19-4/3, Beside Maruthi Mahal, Piduguralla Village and Mandal, Guntur District.

...Petitioner/Petitioner

AND

1. State of A.P., rep by its Public Prosecutor, High Court of A.P., Amaravati  
...1<sup>st</sup> Respondent/Complainant
2. Syed Khasimpeera, S/o. Sattar, Age 24 years, R/o. Thummalacheruvu village, Tarlapadu Mandala, Prakasam District.
3. Yakkali Hanumantha Rao, S/o. Venkaiah, Age 64 years, Markapur Town and Mandal, Prakasam District.
4. Bathula Venkateswarlu, S/o Chinna Kasaiah, aged 47 years, D.No.19-4/3, Beside Maruthi Mahal, Piduguralla Village and Mandal, Guntur District  
(Resoponedents.2 to 4 are not necessary parties)

...Respondents/Respondents

Petition under Section 482 of Cr.P.C, praying that in the circumstances stated in the affidavit filed in support of the CriminalPetition, the High Court may be pleased to quash the order dt.21.01.2022 made in CrI.M.P.No.287 of 2022 in Cr.No.450 of 2021 on the file of the court of the I Addl. Judicial Magistrate of First Class, Markapur.

**IA NO: 1 OF 2022**

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in memorandum of grounds of criminal petition, the High Court may be pleased to order interim custody of the lorry bearing No.AP 07 TT 8649 to the petitioner, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and memorandum of grounds of criminal petition and upon hearing the arguments of Sri V.Sudhakar Reddy, Advocate for the Petitioner and Public Prosecutor for the Respondent No.1, the Court made the following.

**ORDER:**

**THE HONOURABLE SRI JUSTICE D.RAMESH**

**CRIMINAL PETITION No.1000 of 2022**

**ORDER:**

Aggrieved by the order dated 21.01.2021 passed in CrI.M.P.No.287 of 2022 of the First Additional Judicial Magistrate of First Class, Markapur whereby the petition filed under Section 457 of Cr.P.C. seeking interim custody of the vehicle was dismissed, the present Criminal Petition is preferred by the petitioner.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the 1<sup>st</sup> respondent – State.

3. The petitioner herein is claimed to be the owner of the vehicle Lorry Goods Carriage HMV bearing No.AP 07 TT 8649 seized in Crime No.450 of 2021 of Markapur Town Police Station, for the offence under section 420 read with 34 of IPC, 7 of Essential Commodities Act (for short E.C. Act, 1955).

4. The petitioner has filed the petition under Section 457 of the Cr.P.C. before the learned First Additional Judicial Magistrate of First Class, Markapur seeking interim custody of the said vehicle. There is no dispute with regard to the ownership of the vehicle. However, said petition came to be dismissed by the impugned order, in view of the bar contained under Section 6-E of the Essential Commodities Act that the court has no jurisdiction to order for interim custody of the said vehicle.

5. Learned counsel for the petitioner would submit that no confiscation proceedings are initiated in respect of the rice bags or the vehicle seized in this case till now. Therefore, the bar contained under Section 6-E of the Essential Commodities Act is not applicable to the present facts of the case. So, he would submit that the learned First Additional Judicial Magistrate of First Class, Markapur has got jurisdiction to entertain the petition filed under Section 457 of Cr.P.C.

6. Further learned counsel for the petitioner relied on the judgment in W.P.No.10365 of 2020 wherein this Court has categorically held that:

*"if section 6-A proceedings were initiated and pending the Judicial Magistrate of First Class, Alamuru might be right in returning the petition filed under Section 457 of Cr.P.C seeking interim custody of the vehicle. However, since Section 6-A proceedings are not initiated so far and as the crime above is registered and investigation is pending, in the considered view of this Court, learned Judicial First Class Magistrate, Alamuru is competent to entertain the petition of the petitioner. Otherwise the petitioner would be left without remedy".*

7. Learned Additional Public Prosecutor for the 1<sup>st</sup> respondent -State would submit that in this case the entire investigation is completed and police filed the charge sheet and no confiscation proceedings are initiated in respect of the vehicle that was seized in this case, but confiscation proceedings are initiated only in respect of the rice bags. He would submit that as per the settled law in view of the judgment rendered by this Court earlier, when the confiscation proceedings in respect of the vehicle are not initiated and when the vehicle is placed in the custody of trial Court that the learned Magistrate, before whom vehicle is placed, has got jurisdiction to entertain the petition.

8. In view of the above submission of the learned Additional Public Prosecutor for the 1<sup>st</sup> respondent-State that no confiscation proceedings are initiated in respect of the vehicle in question that was seized in the above crime and that the bar under Section 6-E of the Essential Commodities Act has no application to the present facts of the case, as the vehicle is now placed in the custody of the trial Court, the impugned order, dated 21.01.2022 for grant of interim custody is liable to be set aside and the learned First Additional Judicial Magistrate of First Class, Markapur before whom the said vehicle is now placed, is competent to dispose of the petition filed under section 457 Cr.P.C. seeking interim custody, by passing appropriate order to that effect.

9. Therefore, in view of ratio decided by this Court earlier in the above said Writ Petition, the Criminal Petition is allowed setting aside the impugned order and learned First Additional Judicial Magistrate of First Class, Markapur is directed to reconsider the application filed by the petitioner under Section 457 Cr.P.C in accordance with the order passed in W.P.No.10365 of 2020 on the file of this Court and dispose of the same, within a period of two (02) weeks from the date of receipt of copy of this order.

As a sequel, the miscellaneous applications pending, if any, shall stand closed.

SD/- K.TATA RAO  
DEPUTY REGISTRAR  
SECTION OFFICER

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For ASSISTANT REGISTRAR

To,

1. The I Addl. Judicial Magistrate of First Class, Markapur
2. The Station House Officer, Markapur Town Police Station, Markapur.
3. Syed Khasimpeera, S/o. Sattar, R/o. Thummalacheruvu village, Tarlapadu Mandala, Prakasam District. (by RPAD)
4. One CC to Sri. V.Sudhakar Reddy, Advocate [OPUC]
5. Two CCs to Public Prosecutor, High Court of AP [OUT]
6. One spare copy

MM

**HIGH COURT**

**DRJ**

**DATED:17/02/2022**

**ORDER**

**CRLP.No.1000 of 2022**

**ALLOWED**

