

Arun Kumar Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Mar-10-2004

Reported in : 2004CriLJ3796

Judge : N.N. Mathur, J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 451 and 457

Appeal No. : Criminal Misc. Petn. No. 527 of 2003

Appellant : Arun Kumar

Respondent : State of Rajasthan

Advocate for Def. : B.K. Mehar, Public Prosecutor

Advocate for Pet/Ap. : Rakesh Arora, Adv.

Disposition : Petition allowed

Judgement :

ORDER

N.N. Mathru, J.

1. By way of instant petition under Section 482, Cr. P. C., petitioner has challenged the order dated 5-4-2003 passed by the learned Additional Sessions Judge, Nimbahera refusing to interfere with the order dated 9-1-2003 passed by

the learned Judicial Magistrate First Class, Dungla rejecting petitioner's application for delivery of seized Maruti Car under the provisions of Sections 451 and 457 Cr. P. C.

2. Briefly stated the facts of the case are that on 31-10-2002, a written report was lodged by one Ramlal at Police Station, Dungla stating inter alia that in the midnight at about 2 a.m., he received a telephonic message from his brother to the effect that some unknown person entered into the house in village Biloda and broke open the doors and committed theft of jewellery. He rushed to the house and found that the almirah was broken and jewellery was taken away. On this report, police registered a case for the offence Under Sections 457 and 380, I.P.C. and proceeded with investigation. During the course of investigation, police recovered a Maruti Car bearing. Registration No. RJ09/ C-1774. It is alleged that the said car was used in committing theft. The petitioner claiming to be the registered owner of the said vehicle, submitted an application under Sections 451 and 457, Cr. P. C. for release of the same. The application was rejected by order dated 9-1-2003. Learned Additional Sessions Judge has also rejected the revision petition filed against the said order.

3. It is contended by the learned counsel that both the Courts below have committed error in refusing to deliver the said vehicle simply on the ground that there was suspicion of involvement of the said vehicle in the theft.

4. I am of the view that both the Courts below have not addressed to the real parameters, which are required to be applied in a matter for release of the vehicle pending enquiry or trial. No purpose is going to be served by keeping the vehicle in the police station, which is likely to be reduced to scrap in few years. Petitioner is a registered owner of the vehicle and there should not be any objection to deliver the vehicle to him on just and appropriate conditions. If there is any apprehension of the vehicle being used in similar offences, appropriate conditions can be imposed to prevent the vehicle from being used for such purposes. Thus, with a view to secure the ends of justice, it is desirable to invoke the inherent powers of this Court under Section 482, Cr. P. C. by allowing the application of the petitioner.

5. Consequently, the petition is allowed. The order of the learned Additional Sessions Judge dated 5-4-2003 as well as the order dated 9-1-2003 passed the learned Judicial Magistrate First Class, Dungla are quashed and set aside. It is directed that the Maruti Car No. RJ09/C 1774 shall be delivered to the petitioner on Supardginama on his producing the original Registration Certificate and on satisfying the following conditions:

(i) Petitioner shall furnish a personal bond in the sum of Rs. one lac with two sureties of Rs. 50,000/- each to the satisfaction of the learned trial Court undertaking to produce the said vehicle in the Court as and when required to do so;

(ii) The Car shall be photographed showing the registration number as well as chassis number before the same is given on Supardginama. Such photograph shall be taken in the presence of the Investigating Officer, to be kept on the file of the case;

(iii) The personal bond of the petitioner and surety bonds shall carry the photographs of petitioner and his sureties and the bonds of surety shall further carry the photographs of persons identifying them before the Court with full residential particulars of the sureties and the persons identifying them;

(iv) He shall undertake not to transfer the ownership of the vehicle and not to release it to any one and not to make or allow any changes in it to be made so as to make unidentifiable;

(v) He shall not use or allow to use the vehicle for any criminal or anti social activities.

6. The record of the case be returned forthwith.