

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF OCTOBER, 2022

BEFORE

THE HON'BLE MR. JUSTICE K.NATARAJAN

CRIMINAL PETITION NO.9257 OF 2022

BETWEEN

1 . JAVVAJI DHANA THEJA

2 . JAYALAKSHMI

3 . NANDHINI S PRAKASH

... PETITIONERS

(BY SRI SUNIL KUMAR S., ADVOCATE)

AND

- 1 . STATE OF KARNATAKA
BY R.R. NAGAR P S
REPTD BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
HIGH COURT COMPLEX
BENGALURU-560009
- 2 . ROHITH KUMAR

...RESPONDENTS

(BY SRI B.J. ROHITH, HCGP FOR R1
NOTICE TO R2 DISPENSED WITH)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF THE CODE OF CRIMINAL PROCEEDURE, PRAYING TO SET ASIDE THE ORDER DATED 05.04.2022 PASSED BY THE HONBLE LVI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AT BENGALURU IN S.C.NO.230/2022 AND CONSEQUENTLY ALLOW THE APPLICATIONS FILED U/S.451 AND 457 OF CRPC AND PLEASED TO DIREC THE RESPONDENT POLICE TO RELEASE THE VEHICLES i) CAR HONDA CITY 2X GXI MT BEARING REGISTRATION NO.KA-51-M-4532 IN P.F.NO.135/2021, ii) HONDA DIO BIKE BEARING NO.KA-05-KC-0025 IN P.F.NO.137/2021.

THIS CRIMINAL PETITION COMING ON FOR ADMISSION, THIS DAY THE COURT MADE THE FOLLOWING:

ORDER

Learned HCPG takes notice for respondent No.2

2. This petition is filed by the petitioners under Section 482 of Cr.P.C for quashing impugned order passed by the District and Sessions Judge in S.C.No.230/2022 dated 05.04.2022, on the application filed by the petitioners under Sections 451 and 457 of Cr.P.C for the release of the vehicles.

3. Heard the arguments of learned counsel for petitioner and looking to the facts and circumstances of the case, issuing notice to respondent No.2 is dispensed with.

4. The case of the petitioners is that they are RC owners of the vehicles bearing vehicles, (a) Honda City Car GXI bearing registration No.KA-51-M-4532 which was seized in PF.No.135/2021, (b) Honda Dio bike bearing NO. KA-05-KC-0025 seized in PF.No.137/2021, and (c) Bajaj auto bearing No.KA-01-AK-7902 seized in PF No.152/2021

by the R.R.Nagar police station in respect of Crime No.188/2021 for the offence punishable under Sections 307, 341, 506 read with 34 of IPC. The matter was committed to the court of Sessions and pending for trial when the application came to be filed by the petitioners it came to be rejected for the purpose of identification, which was challenged by the petitioner before this Court.

5. Having heard the arguments and perusal of records which reveals ofcourse the petitioner not moved any application even though vehicles are seized in the year 2021 which was said to be involved in commission of a crime used by the accused persons. But these petitioners are only RC owners and they are not the accused before the trial court. The vehicles said to be used by the accused persons, which are seized by the police during the investigation. As per the judgment of the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai vs State Of Gujarat reported in (2002) 10 SCC 382*** the vehicles shall not be allowed to lie idle in front of the police station.

The Magistrate or the Court shall dispose of the application for releasing the vehicles to the RC owners, by imposing certain conditions. Such being the case, the trial court rejecting the application for releasing the vehicle is not correct and if the vehicles are allowed to lie in front of the police station, there may be wear and tear and it cannot be possible for the police to bring the vehicles to the court for the purpose of identification. The Hon'ble Supreme Court also laid down the guidelines for taking of the photographs of the vehicle with the panchanama by the Investigation Officer while releasing the vehicle. Such being the case, on the ground of identification rejecting the application for release of vehicle is not correct. Therefore, the impugned order passed by the trial court is liable to be set aside.

Accordingly, this petition is allowed.

The order of the trial court in S.C.No.230/2022 dated 05.04.2022 is set aside. The application filed by the

petitioners under Section 451 and 457 of Cr.P.C is hereby allowed, with the following conditions;

- (i) The trial court is directed to release the vehicle to the petitioners by taking out indemnity bond of (a) Rs.3,00,000/- towards the Honda City Car GXI bearing registration No.KA-51-M-4532, (b) Rs.30,000/- towards Honda Dio bike bearing No. KA-05-KC-0025 and (c) Rs.75,000/- towards Bajaj auto bearing No.KA-01-AK-7902 with surety for the likesum to the satisfaction of the trial court; and
- (ii) The Investigation officer is directed to release the vehicle by taking out the photographs of the vehicles in different angles along with the panchanama and produce the same before the trial court for the purpose of identification.

AKV

**Sd/-
JUDGE**