

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

THURSDAY, THE THIRTIETH DAY OF APRIL
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION NO: 5535 OF 2020

Between:

V.Vamsi Krishna, s/o V.Ramakrishna Aged about 26 years Dasrathi lane,
M.G.Road Jeypur, Koraput district Odisha 764001

...PETITIONER

AND

1. The State of Telangana, Home Department, Secretariat, Secretariat Building, Hyderabad Rep. by its Principal Secretary
2. The Director General of Police Government of Telangana, Saifabad, Hyderabad
3. Commissioner of Police, Cyberabad Gachibowli, Hyderabad
4. The Station House Officer, Traffic police station Madhapur, Cyberabad Hyderabad

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ of mandamus or any other appropriate writ or direction declaring the action of Government of Telangana specifically the SHO, Madhapur in detaining the petitioner's vehicle bearing registration No. TS-07-UF-3849, Aactiva 4G W E A S KSDRUMCBS WSSTEEL METAL BSIV 2017 Model as illegal and sans any sanction of law and direct the 4th respondent to release the car forthwith

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to release the petitioners vehicle bearing registration No. TS-07-UF-3849, Aactiva 4G W E A S KSDRUMCBS WSSTEEL METAL BSIV 2017 Model from the illegal detention of Station House Officer, Madhapur, Cyberabad forthwith and without any further delay of time, pending disposal of the WP

Counsel for the Petitioner: SRI SRIKARUNAKAR KOMMIREDDY

Counsel for Respondents: AGP FOR HOME

The Court made the following: ORDER

HON'BLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION NO.5535 OF 2020

ORDER:

The present writ petition is filed to declare the action of respondent No.4 in detaining the vehicle bearing registration No. TS 07 UF 3849 of the petitioner, as being illegal, arbitrary, and constitutional with a consequential relief to direct the 4th respondent to release the vehicle forthwith.

2. Heard learned counsel for the petitioner and learned Assistant Government Pleader for Home for respondent Nos.1 to 4.

3. The case of the petitioner is that, the petitioner he had taken on hire the subject vehicle and himself was driving the vehicle in question and that on 29.02.2020, when the petitioner reached near Parvat nagar within the jurisdiction of the Madapur Traffic Police Station, the 4th respondent and other Constables who were deployed there to check vehicles and to determine whether the drivers of those vehicles were in inebriated condition or not, stopped him and subjected him to breath analyzer test and alleged that he is in an inebriated state and seized his vehicle, and that the said vehicle is presently lying at the 4th respondent Police Station in the open space and he was also issued with e-challan mentioning violations under Sections 185(a), 130/177 and 207 of the Motor Vehicles Act, 1988 (for short, 'the M.V. Act'), which are not applicable to drunk and drive cases. Further, the learned counsel for the petitioner while seeking release of the vehicle submits that said vehicle is actually taken on hire from the

registered owner, which is a vehicle rental company and the 4th respondent has no jurisdiction to detain his vehicle.

4. Learned Assistant Government for Home, on instructions, submits that the petitioner was found driving the subject vehicle on 29.02.2020, at about at 23:58 hrs., when he reached the place near Parvat nagar falling under the Madhapur Traffic Police Station area jurisdiction, the respondent police stopped and subjected the petitioner to breath analyzer test and found the alcohol reading above the permitted limit and since the driver of the vehicle was not in a position to drive the vehicle and as he did not produce the relevant documents, the police authorities have taken safe custody of the vehicle temporarily and placed the vehicle at the 4th respondent police station by exercising powers under Section 207 of the M.V. Act. He would further submit that if the petitioner along with the representative of the vehicle hiring / rental company duly authorized to receive the said vehicle upon release, appears before the concerned police authorities with whom the vehicle is in safe custody, along with his proof of identity and relevant documents of the vehicle and on paying the prescribed fine, the police authorities would be release the vehicle to the registered owner.

5. In so far as the police authorities taking custody of the vehicle on the driver being found in inebriated condition, this Court in W.P.No.2361 of 2019 observed that - "Even if the driver on that particular day was unable to drive the vehicle, that does not mean that respondents can retain the vehicle".

6. Having regard to the above said submissions and in the peculiar facts and circumstances of the case, the petitioner along with the representative of the vehicle hiring / rental company duly authorized in this regard are directed to appear before the 4th respondent authority with proof of their identity and relevant documents of the vehicle in question. Upon the petitioner and the representative of the registered owner approaching the 4th respondent or other official, who has the safe custody of the vehicle in question and making an application for release of the vehicle together with relevant documents, the said authority shall consider the same and release the vehicle to the representative of registered owner of the subject vehicle forthwith by collecting fine as prescribed under the M.V. Act for non-production of documents, other violations and also if such vehicle is not involved in any other case.

7. Subject to the above observation, the Writ Petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SD/-K.SAILESHI
ASSISTANT REGISTRAR

//TRUE COPY//

PV
SECTION OFFICER

To,

1. The Principal Secretary, Home Department, State of Telangana Secretariat Building, Hyderabad
2. The Director General of Police Government of Telangana, Saifabad, Hyderabad
3. Commissioner of Police, Cyberabad Gachibowli, Hyderabad
4. The Station House Officer, Traffic police station Madhapur, Cyberabad Hyderabad
5. One CC to Sri Srikanth Kumar Kommireddy Advocate [OPUC]
6. Two CCs to GP For Home, High Court for the State of Telangana. [OUT]
7. Two CD Copies

MBC
JM



HIGH COURT

DATED: 30/04/2020



ORDER

WP.No.5535 of 2020

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

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HMA
22/5/2020