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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 2540/2011

NARENDER

..... Petitioner

Through : Mr. Vimal Puggal, Adv.

versus

STATE

..... Respondent

Through : Ms. Fizani Husain, APP for the State
along with ASI Nand Kishore, P.S.
Aman Vihar.

CORAM:

HON'BLE MR. JUSTICE M.L. MEHTA

ORDER

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28.11.2011

This is a petition against the orders dated 24th May, 2011 and 14th July, 2011 of MM passed in case FIR No.112/11 under Section 33 of the Excise Act registered at P.S. Aman Vihar. Vide the impugned order, the MM has dismissed the application for release of vehicle No.HR-56-7290 on superdari. The aforesaid vehicle along with 27 cartons of liquor was confiscated and when the said vehicle was being driven by the driver, Naseeb Singh. The application before the MM for release of vehicle on superdari was filed by one Virender, son of Jagat Singh, attorney of Narender, the petitioner herein. The said application was dismissed by the MM vide impugned order dated 24th May, 2011 stating that he was not

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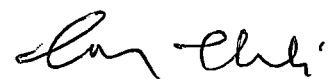
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empowered to release the vehicle on superdari involved in Delhi Excise Act cases. A review against that order was also dismissed by him on 14th July, 2011 again maintaining the same reasoning. The present petition has been filed by Narender claiming himself to be the owner of aforesaid vehicle HR-56-7290. It has been stated by learned APP that Virender also filed the application for release of vehicle before the Excise Commissioner, but the same was not allowed since it was not by the registered owner and the address was also found not correct.

I have heard the learned APP and the IO who is present and nothing could be pointed out to show that though the liquor was confiscated, the vehicle in question was also confiscated. The vehicle in question was seized by the Police and not confiscated and if that was so, Section 58, Delhi Excise Act would not apply with regard to the vehicle in question and the procedure that was to be followed regarding the vehicle was to be found in Chapter VI of Delhi Excise Act and also Section 451, Cr.P.C. The vehicle is stated to be no more required by the Police. The same is directed to be released to the registered owner on superdari on the usual terms and to the satisfaction of the learned MM.

The petition is disposed of.

Dasti.


M.L. MEHTA, J

NOVEMBER 28, 2011
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