

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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CRIMINAL PETITION No.2639 of 2015

ORDER:

This is a petition filed, under Section 482 of the Code of Criminal Procedure, 1973, requesting this Court to quash the order dated 27.06.2014, in Crl.M.P.No.2247 of 2014 in Crime No.89 of 2014 of Vatsavai Police Station, on the file of Additional Judicial Magistrate of First Class, Jaggayyapeta, Krishna District, and also to direct the respondent to give interim custody of lorry bearing No.AP 16 Y 6188 to the petitioner.

Facts, as revealed from the material on record, would show that the petitioner is the owner of the said lorry which was engaged for transporting liquor bottles at Jaggayyapeta; and the Station House Officer, Vatsavai Police Station seized the vehicle with liquor bottles from the possession of the petitioner, and registered a case under Section 34(a) of the Andhra Pradesh Excise Act, 1968 (for short 'the Act').

Learned counsel for the petitioner contends that the lorry was not seized by the excise officials and the lorry was still in the custody of police, law and order and the learned Magistrate was not right in rejecting the request of the petitioner; and, therefore, while requesting to quash the order, sought to grant interim custody of the vehicle.

Perused the order. The learned Magistrate, referring to the provisions of Section 46 of the Act, observed that the Deputy Commissioner, Prohibition and Excise was the competent authority to dispose off the property recovered in excise cases and, unless the Deputy Commissioner, Prohibition and Excise, produces the case property before the Court, the Court has no authority to dispose off the case property. It is not in dispute that the offence levelled against the accused was under the provisions of the Andhra Pradesh Excise

Act. Therefore, the Deputy Commissioner, Prohibition and Excise, alone is the competent authority as per the mandate of Section 46 of the Act.

As there is no merit in the petition, the Criminal Petition is dismissed. It is left open to the petitioner to approach the appropriate authority.

Learned counsel for the petitioner also requests for return of the Criminal Revision Petition filed by the petitioner before the District and Sessions Judge, Krishna at Machilipatnam, which was returned with an endorsement, and the order, in Crl.M.P.No.2247 of 2014 on the file of learned Additional Judicial Magistrate of First Class, Jaggayyapeta, Krishna District in Crime No.89 of 2014 of Vatsavai Police Station. Learned counsel for the petitioner/ petitioner is directed to substitute it with photostat copies of the order as well as the Criminal Revision Petition, attested by the learned counsel, on which, the Registry is directed to return the certified copy of the order as well as original Criminal Revision Petition.

As a sequel thereto, miscellaneous applications pending, if any, shall stand dismissed.

A. SHANKAR NARAYANA, J

Date:08.04.2015

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