

THE HONOURABLE MR JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.3173 of 2015

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ORDER

Heard learned counsel for the petitioner, learned Government Pleader for Prohibition and Excise and learned Government Pleader for Home.

2. Petitioner's vehicle i.e., Bajaj Auto bearing No.AP 36 TB 4108, is stated to have been involved in Cr.No.803 of 2014 on the ground that it was carrying 150 Kgs of black jaggery and 15 Kgs of Alum. Petitioner had earlier approached this Court in CrI.P.No.506 of 2014 under Sections 451, 457 read with Section 482 Cr.P.C., seeking release of the vehicle, and by the order of this Court dated 31.01.2014, the vehicle was directed to be released subject to certain conditions as stipulated in the order. Thereafter, the Deputy Commissioner of Prohibition and Excise, Warangal Division passed an order dated 29.10.2014 in Cr.No.803 of 2014, directing confiscation of the said vehicle. The appeal filed by the petitioner against the said order before the Commissioner of Prohibition and Excise, Telangana, Hyderabad, was also dismissed under the impugned order dated 08.01.2015. Petitioner states that after the order of confiscation passed by the Deputy Commissioner, the vehicle, which was released in his favour by this Court in the crime referred to above, was again seized. Petitioner states that the order of confiscation of his vehicle would cause serious prejudice to him. He contends that he has not committed any offence and his livelihood, which depends upon the

vehicle, would be affected as the vehicle is stated to be hypothecated with a finance company.

3. The order of the Deputy Commissioner as well as the Commissioner is clearly based upon the decisions of this Court and the Supreme Court, which are referred to in the said orders. Hence, the order of the Deputy Commissioner as well as the Commissioner directing confiscation of the vehicle cannot be said to be vitiated on any ground and therefore, I am not inclined to interfere with the said orders. As the confiscation of the vehicle is in consequence of the orders of the statutory authorities that the vehicle is involved in violation of the law, I am not inclined to accept the submissions of the learned counsel for the petitioner.

4. Inasmuch as even after confiscation, the respondents will have to put the vehicle to auction and recover its value, alternatively, since the petitioner is prepared to deposit the value of the vehicle, it would be just and appropriate to grant an opportunity to the petitioner to deposit the value of the vehicle in lieu of confiscation.

5. Hence, the Writ Petition is disposed of with the following directions;

- (i) the Deputy Commissioner of Prohibition and Excise shall get the value of the vehicle assessed through the Motor Vehicles Inspector within his jurisdiction and notify the petitioner to deposit the said value, within a period of two weeks;

- (ii) the petitioner is permitted to deposit the value of the vehicle, and on such deposit, respondents 2 and 3 shall release the vehicle in his favour in lieu of confiscation;
- (iii) the amounts, if any, paid by the petitioner for the purpose of seeking interim release of the vehicle shall be given credit to while receiving the value of the vehicle;
- (iv) in the event of default of the petitioner in depositing the value as is assessed as per the directions above, respondents 2 and 3 shall be free to proceed further with proceedings of auction of the said vehicle and then take further steps in accordance with law;
- (v) pending exercise as directed above, any proceedings for auction of the said vehicle shall remain stayed.

6. With the above directions, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

VILAS V. AFZULPURKAR, J

13th February, 2015
sj