

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.37692 of 2015

ORDER:

This writ petition was filed with the following prayer:

“For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the order in C.C.No.310 of 2010 dated 2.2.2015 of the Hon'ble Judicial Magistrate of First Class, Special Mobile Court, Khamma, in confiscating M.O.1 amount of Rs.55,800/- of the petitioner in favour of the Government as illegal, improper, null and void and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

It is no doubt true that the petitioner was acquitted by the learned Judicial Magistrate of First Class, Special Mobile Court, Khammam, by judgment dated 02.02.2015 in C.C.No.310 of 2010 arising out of Crime No.4 of 2010 on the file of Nelakondapally Police Station, Khammam.

However, perusal of the judgment reflects that the case property under CPR No.34 of 2014 i.e. M.O.1 was directed to be confiscated to the State forthwith. This case property was the confiscated cash amount of Rs.55,800/-.

It is now brought to the notice of this Court that the petitioner filed an application under Section 452 Cr.P.C. seeking return of this cash amount but by docket order dated 08.10.2015, the petition was returned on the ground of maintainability as the judgment was already passed. If the petitioner is aggrieved by the judgment insofar as it directed confiscation of the case property-M.O.1, it would be open to him to file an appeal insofar as this part of the judgment is concerned notwithstanding his acquittal.

Reserving liberty to the petitioner to file such an appeal, the writ petition is closed. Pending miscellaneous petitions, if any, shall also stand closed. No order as to costs.

JUSTICE SANJAY KUMAR

26th November, 2015

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