

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.14898 of 2009

ORDER:

This writ petition was filed assailing the order dated 30.03.2009 passed by the Commissioner of Prohibition and Excise, Government of Andhra Pradesh, Hyderabad, confirming the order dated 15.10.2008 passed by the Deputy Commissioner of Prohibition and Excise, Karimnagar Division, Karimnagar, whereby the petitioner's vehicle, i.e. the Tata Van bearing Regd.No.AP 01 W 5503, was confiscated.

By order dated 24.07.2009, this court directed release of the confiscated vehicle subject to the petitioner depositing its monetary value by way of a fixed deposit in any Nationalised Bank in the name of the Deputy Commissioner of Prohibition and Excise, Karimnagar Division, the 2nd respondent. The 2nd respondent was directed to get the vehicle valued within a time frame and intimate the same to the petitioner. Within four weeks thereafter, the petitioner was to produce a copy of the fixed deposit receipt, whereupon the vehicle was to be released.

The petitioner however filed W.P.M.P.No.3771 of 2010 thereafter seeking modification of the above order by permitting him to create a mortgage on his house instead of depositing the money by way of a fixed deposit. By order dated 14.06.2011, the said application was dismissed. In effect, the interim order was not acted upon as the petitioner failed to comply with the condition imposed.

The learned Government Pleader for Excise and Prohibition, State of Telangana, informed this Court, on the basis of written instructions dated 10.09.2015 received by him from the Deputy Commissioner of Prohibition and Excise, Adilabad (Full Additional Charge), that the confiscated vehicle of the petitioner was in the safe custody of the Police Station at Dandepalli.

Sri S.Chandra Shekhar, learned counsel for the petitioner, contended that the confiscation of the vehicle was legally

unsustainable as the petitioner, being the owner and driver of the said vehicle, had no knowledge of the fact that liquor was being transported in his vehicle. According to the learned counsel, the petitioner was coming from Jannaram and allowed five passengers at Medaripet Village to board his vehicle along with gunny bags and the petitioner had no knowledge of what was being carried in those gunny bags. Learned counsel would therefore contend that the petitioner had no *mens rea* to commit an excise offence and therefore, his vehicle was not liable to be confiscated.

In the light of the law laid down by the Supreme Court in **Commissioner, Prohibition and Excise, A.P. v. Sharana Gouda**^[1], *mens rea* of the owner of the vehicle is no longer relevant. Earlier, there used to be a proviso to Section 45(2) of the Andhra Pradesh Excise Act, 1968, but by virtue of the amendment carried out under the Andhra Pradesh Amendment Act of 1994, the said proviso was done away with. Under the proviso as it existed, the issue of *mens rea* was relevant. However, after its omission from the statute book, *mens rea* is not required to be established for making out the commission of an offence by the owner of the vehicle. Therefore, even if the stand of Sri S.Chandra Shekhar, learned counsel, were to be accepted, it has no impact on the impugned confiscation of the vehicle as the state of mind of the petitioner is absolutely of no relevance. In any event, the petitioner ought to have been more mindful of what was being carried in his vehicle. Thus, he can have no legally redressable grievance as to the confiscation of the subject vehicle. This Court therefore finds no reason to interfere with the orders under challenge.

This writ petition is devoid of merit and is accordingly dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

Date:14.09.2015

GJ

[\[1\]](#) (2007) 6 SCC 42