

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION NO.739 of 2015

ORDER:

Heard both sides.

As seen from the record the offence alleged in this case is under Section 34(a) of A.P. Excise Act, 1968. The grievance of the petitioners is that they are the registered owners of the vehicles i.e., Honda Activa bearing Registration No.AP 03 BD 1948; Hero Honda Passion Plus bearing Registration No.AP 03 AB 9489 and Hero Honda Splendor bearing Registration No.AP 03 AP 1697 and the police have seized the vehicle and kept in the premises of Thiruchanur Police Station, and it is subjected to speedy and natural decay and the learned V Additional Judicial Magistrate of First Class, Tirupathi, dismissed their petitions in Crl.M.P.Nos.6380, 6379 and 6381 of 2014 dated 23.09.2014 on an erroneous ground that he has no jurisdiction to entertain the petitions.

Having regard to the fact that the offence alleged is under Section 34(a) of A.P. Excise Act, the Deputy Commissioner of Prohibition and Excise is the competent authority to pass an order for confiscation/release and interim custody etc., under Section 46-E of Excise Act. Hence, the decisions relied upon by the petitioner in ***Ramavath Latchiram, Nalgonda District vs. SHO, Prohibition and Excise Station, Macherla^[1], Itham Yesu vs. The State of A.P. through SHO, Chintakani PS,***

Khammam District^[2] and **S.Kareemulla vs. Prohibition and Excise Sub-Inspector, Nandya**^[3] will not help his cause in view of the latest judgment of this court in **Crl.P.No.104 of 2015 dated 02.02.2015**. Therefore, the petitioners are directed to file petitions seeking interim custody of the property seized and the Deputy Commissioner of Prohibition and Excise shall pass an order on merits thereon within one week from the date of filing of the petition before him.

The Criminal Petition is accordingly dismissed.

As a sequel, miscellaneous petitions, if any, pending shall stand closed.

U.DURGA PRASAD RAO,J

18-02-2015
Murthy

^[1] Unreported judgment in Crl.R.C.No.291 of 2013 dt.15.02.2013

^[2] Unreported judgment in Crl.R.C.No.426 of 2013 dt.15.03.2013

^[3] 1996 (1) ALD (Crl.) 943