

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.33912 OF 2016

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking to declare Crime No.67 of 2016 dated 03.06.2016 on the file of the 2nd respondent-Station House Officer, Anakapally Rural Police Station, Visakhapatnam, registered under Section 286 IPC in pursuance of complaint lodged by the 3rd respondent, as arbitrary and illegal and set aside the same and consequently, to direct the 2nd respondent to return the seized stocks to the petitioner in pursuance of Panchanama report, dated 03.06.2016.

2. In the affidavit filed in support of the petition, it is stated that the petitioner obtained licence in the year 2010 for manufacture of fireworks and the same is valid till 31.10.2016. Before expiry of licence period, the petitioner filed an application before the authorities concerned for renewal of licence. Meanwhile, the 3rd respondent has inspected the petitioner's premises on 03.06.2016 and lodged the present complaint on the ground that he has no valid licence to carryout the fire works business and seized the raw materials and crackers. Hence, the Writ Petition.

3. Learned counsel for the petitioner submits that the petitioner is having valid licence till 31.10.2016 to do the crackers business and before expiry of licence period, he filed an application on 19.03.2016 before the authorities concerned for renewal of licence. The same is pending and in the meantime the present crime came be registered.

4. As seen from the record, the petitioner has valid licence to run the crackers business and the same is valid till 31.10.2016. Thereafter, the petitioner filed an application for renewal of licence. Once the application is pending for renewal of licence for running crackers business and there is no refusal, it is to be presumed that the petitioner is having a valid licence.

5. Learned counsel for the petitioner relied on the order of this Court, dated 03.12.2014, in W.P.No.34027 of 2014. Following the said order, this Court is of the view that in stead of quashing Crime No.67 of 2016 of Station House Officer, Anakapally Rural Police Station, Visakhapatnam, interim relief of return of crackers can be ordered.

7. Accordingly, the Writ Petition is disposed of directing the 3rd respondent-Sub-Inspector of Police, Anakapally Police Station, Visakhapatnam, to return the seized materials and crackers to the petitioner herein on condition of petitioner executing a personal bond for a sum of Rs.25,000/- (Rupees twenty five thousand only). It is made clear that the 3rd respondent is at liberty to investigate the case in accordance with law. No costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE RAJA ELANGO

OCTOBER 24, 2016

Note:

Furnish C.C. by tomorrow.

(B/o)
YVL

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Date: 24.10.2016

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