

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.1995 OF 2016

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ORDER:

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1. This Criminal Petition is filed by the petitioner-owner of the property under Section 482 Cr.P.C. seeking to quash the order dated 2.1.2016 passed in CrI.M.P.No.3796 of 2015 in C.C.No.206 of 2012 by the Judicial First Class Magistrate, Narsampet.

2. The petitioner faced the trial in the above C.C. for the offence punishable under Section 7(A) r/w 8(e) of the A.P. Prohibition Act and under Section 34(e) of the A.P. Excise Act, and he was acquitted in the above C.C. for the said offence. Subsequently, the petitioner filed the above CrI.M.P. seeking to return the Bank Guarantee furnished by him at the time of release of the stock seized in the above case in view of his acquittal in the above C.C. The said application was dismissed by the Court below. Aggrieved by the same, the petitioner filed this petition.

3. Heard and perused the material available on record.

4. In the judgment in the above C.C., while acquitting the petitioner, the trial Court observed as follows:

“The black jaggery and alum, which was already handed over to the petitioner shall hold good.”

When the petitioner filed the above CrI.M.P. for return of the Bank guarantee, the Court below dismissed the said CrI.M.P. on the ground that the order of confiscation under Section 2 of Section 46 or 46-B of the A.P. Excise Act shall not prevent from initiation of criminal proceedings against the accused and that the result of criminal proceeding either acquittal or conviction or otherwise under the provisions of the Act will have no bearing upon the

order of confiscation under this Act and the Court has no power to grant the relief sought by the petitioner.

5. It is true that even after acquittal also, the confiscation can be ordered. But in the present case, the black jaggery and alum are not the prohibited articles and the said properties were also returned to the petitioner. The trial Court also observed in the judgment that the black jaggery and alum, which was already handed over to the petitioner, shall hold good. In the circumstances, this Court is of the view that bank guarantee furnished for release of the said articles also can be returned.

6. Accordingly, the Criminal Petition is disposed of directing the 2nd respondent to return the Bank guarantee furnished by the petitioner, at the time of release of the stocks seized in the above case, to him. Consequently, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Date: 18.02.2016

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