

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.2213 OF 2016

ORDER:

The present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C. aggrieved by the order dated 29.10.2015 passed in CrI.M.P.No.1855 of 2015, in Crime No.135 of 2015 of Kothapeta Police Station, on the file of Judicial First Class Magistrate, wherein the petition filed seeking return of 89 boxes of fire cracker articles towards the interim custody to the petitioner was returned.

2. The gist of the case is that on 27.07.2015 at about on 10 p.m., 89 boxes containing crackers which were found in the house of the petitioner, were seized in the presence of mediators. The allegations in the mediators report disclose that the said stock was being sold by the petitioner without valid permit or license. Basing on the said allegations the above said crime came to be registered for the offences punishable under Sections 286 of IPC and 3 and 4 of Explosives Substance Act, 1908. Initially, the petitioner filed an application seeking custody of crackers, but the trial Court rejected the request of the petitioner on the ground that he did not obtain renewal of license at the time of possession of the said stock. Subsequently, the petitioner claims to have obtained license and then filed another M.P. in the month of October, 2015, which was also rejected in view of the earlier order. Hence the present revision came to be filed.

3. The petitioner claims to have been made an application for renewal of license for the year 2016 and 2017. He placed on record the challan showing payment of money of Rs.2,500/-, Rs.300/- and also the representation made by him seeking renewal of license. It has been urged that though the said representation was made in the month of November, 2015, till date, the same is pending consideration. It is his case that the crackers, if kept in police station for a long time get spoiled due to exposure to sun and rain.

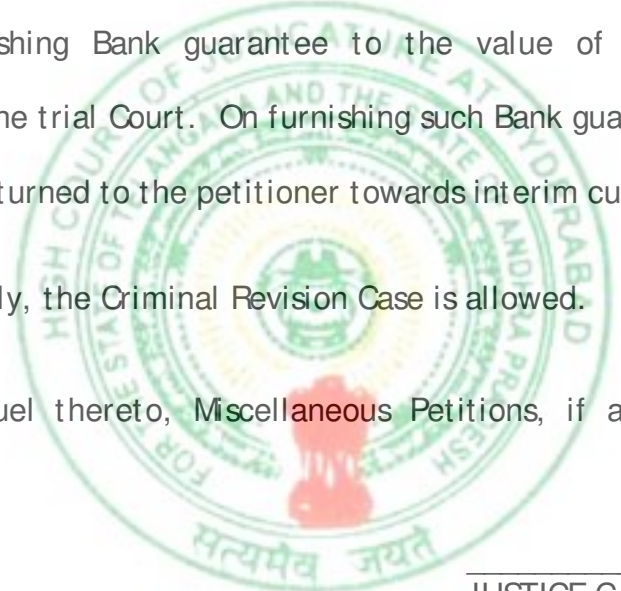
He relied upon the judgment of Madras High Court in I.Bhaskar Vs. Sub Inspector, Virudhachalam Police Station, Cuddalore District, wherein the Court discussed about the renewal of license and giving of case property as interim custody to the claimant after taking photographs or videograph.

4. Since there is no dispute with regard to the fact of seizure of crackers from the possession of the petitioner and since the application for renewal of license is pending consideration, the request of the petitioner can be considered on certain terms and conditions.

5. Accordingly, there shall be interim custody of crackers seized in Crime No.135 of 2015 of Kothapeta Police Station, subject to the condition of the petitioner furnishing Bank guarantee to the value of the stock to be determined by the trial Court. On furnishing such Bank guarantee, the seized stock shall be returned to the petitioner towards interim custody.

6. Accordingly, the Criminal Revision Case is allowed.

7. As a sequel thereto, Miscellaneous Petitions, if any, pending shall stand closed.



JUSTICE C. PRAVEEN KUMAR

01.09.2016
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