

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.199 of 2016

ORDER:

Heard.

Assailing the order dated 04.01.2016 passed in CrI.M.P.No. 7748 of 2015 in Crime No.169 of 2015 on the file of the I Additional Judicial Magistrate of First Class, Tadepalligudem, wherein and whereunder an application filed for return of auction amount of Rs.8,01,000/- was rejected, the present Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C.

The averments in the first information report would show that the petitioner was in possession of explosive substances and fire crackers without having licence in un-licenced place worth Rs.50.00 lakhs. On receipt of the information that the petitioner is in possession of explosive substances, the police along with mediators went to Old Rice Mill bearing Door No.9-59/1 and found the godown locked. Then, the Tahsildar, Tadepalligudem broke open the godown, entered into the godown and found Deepavali Fire crackers stored in the godown. The entire stock was alleged to have been seized. Basing on the search and seizure a case in Crime No.169 of 2015 came to be registered for the offences punishable under Section 286 IPC and Section 9 (b) of the Explosives Act, 1884.

Thereafter, the petitioner herein filed an application for return of the seized stock, which was dismissed. On an application made by the investigating officer, the Court directed the concerned Station House Officer to sell the seized property in

an open auction as per the procedure and deposit the derived amount before the Court. Accordingly, the police conducted auction and deposited an amount of Rs.8,01,000/- before the Court.

The petitioner herein filed an application seeking return of auction amount, which was dismissed by the trial Court. Challenging the same, the present revision is filed.

Learned counsel for the petitioner submits that the petitioner is one of the partner of M/s. Vijaya Vasavi Agencies, and the said agency is having licence till March, 2018 vide Licence No.E/SC/AP/24/358(E81206). He submits that he was granted licence for doing fire cracker business subsequent to registration of the crime.

Learned Public Prosecutor opposed the revision.

A perusal of the order under challenge show that since the petitioner has kept the fire crackers without any licence in un-licenced place, his request for release of auctioned amount was not considered. But the argument of the learned counsel for the petitioner is to the effect that there was a licence, which was valid upto March, 2018 and the allegations made against the petitioner are all false and invented for the purpose of this case. He further submits that though the value of the seized property is morethan Rs.25.00 lakhs and the amount derived from the auction was only Rs.8,01,000/-.

Since the petitioner is one of the partner of M/s. Vijaya Vasavi Agencies, and the said agency is having licence till March, 2018 vide Licence No.E/SC/AP/24/358(E81206) and having regard to the facts and circumstances of the case, the auction amount of

Rs.8,01,000/- shall be returned to the petitioner subject to the petitioner furnishing bank guarantee for Rs.4,00,000/- and third party security of the movable or immovable property for the balance amount, to the satisfaction of the concerned Court.

Accordingly, the Criminal Revision Case is allowed.
Miscellaneous petitions, if any, pending, shall stands closed.

C.PRAVEEN KUMAR,J

04.04.2016
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