

THE HONOURABLE SRI JUSTICE RAJA ELANGO

**WRIT PETITION Nos.26285, 36640 & 36644 of 2016 &
W.P.M.P.No.34770 of 2016 in W.P.No.26285 of 2016**

COMMON ORDER:

All these three writ petitions are disposed of by way of a common order since the points raised in all the writ petitions are concerned with FIR No.303 of 2016.

The petitioners, who are A-5, A-6 & A-7 in FIR No.303 of 2016 filed W.P.No.26285 of 2016 seeking to call for the records in FIR No.303 of 2016, on the file of the Nallapadu Police Station, Guntur District, and to quash the same.

The petitioner (A-3), who is the owner of the vehicle, filed W.P.No.36640 of 2016 seeking to declare the action of the respondents in seizing lorry bearing No.AP 5X 6424 in FIR No.303 of 2016 and not releasing the same to the petitioner, as illegal and arbitrary.

The petitioner, shown as A-2 in the above said crime, filed W.P.No.36644 of 2016 to declare the action of the respondents in seizing 28 bales of FCV Tobacco in Crime No.303 of 2016 and not releasing the same to him as illegal and arbitrary.

Heard and perused the material available on record.

For the sake of convenience, the parties herein are referred to as arrayed in W.P.No.26285 of 2016.

The brief facts of the case are as follows:

On the report lodged by the 4th respondent, the 3rd respondent has registered the same as FIR No.303 of 2016. In the said complaint, it is alleged that on 09.07.2016, when the 4th respondent intercepted one Ashoka Leyland lorry bearing No.AP 5X 6424 while carrying Tobacco at Guntur and Chilakalurupet high way at 7.30 a.m., the owner of the lorry and driver failed to produce the documents. On enquiry, the lorry driver

stated that he was engaged by one Angadala Srinu, the owner of the vehicle on 08.07.2016 at 12.00 p.m. for transportation of Tobacco at Buttaigudem, West Godavari District to Guntur and the owner of the vehicle stated that he received a phone call from one Miryala Ravi Kumar on 08.07.2016 to engage his truck for transportation of Tobacco from Buttaigudem to Guntur and on enquiry of one Miryala Ravi Kumar, he stated that the tobacco was purchased by middlemen and he refused to reveal the names of the said middlemen. It is further alleged that A-2 and A-4 are purchasers of Tobacco from illegal growers and they sell the same in the auction. Hence, on suspicion, the vehicle was moved to head office of Tobacco Board for further enquiry and on suspicion that the said tobacco is illegally transported, the 4th respondent lodged a report with the 3rd respondent police on 11.07.2016. The 3rd respondent, after registering the same as FIR No.303 of 2016, arrested A-1 and A-2. As per remand report, dated 19.07.2016, one Angadala Srinu was shown as the owner of the lorry, but the petitioner in W.P.No.36640 of 2016 is the actual owner of the vehicle.

Learned counsel for the petitioners submitted that the offences registered against the petitioners are not cognizable offences and that the 3rd respondent police, with an intent to arrest the petitioners (A-5, A-6 & A-7), added Section 420 IPC and registered the above said crime, but the contents of the complaint do not disclose any such offence under Section 420 IPC.

Considering the facts and circumstances of all the cases and the submissions of the learned counsel for the petitioners, all the points which are raised by the petitioners in all these writ petitions can be decided by the Investigation Agency after conclusion of the investigation and hence, all the writ petitions are disposed of with the following directions:

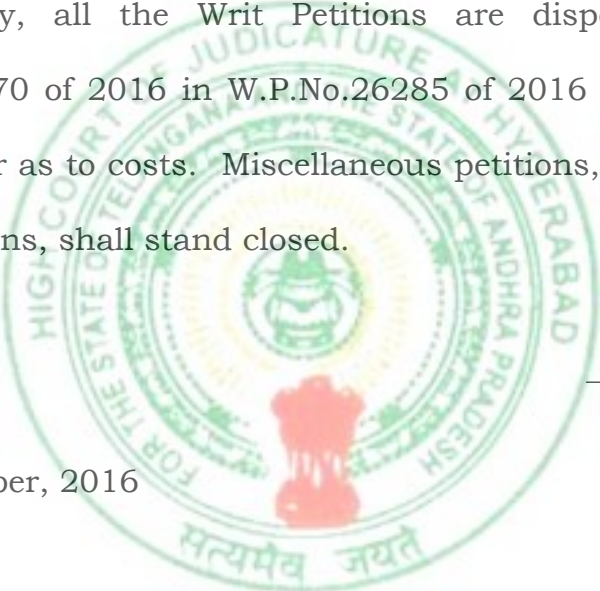
W.P.No.26285 of 2016 is disposed of by directing the respondent police to complete the investigation in FIR No.303 of 2016 as expeditiously as possible and file a final report, if any, either way in accordance with law, without arresting the petitioners (A-5, A-6 & A-7).

The *de facto* complainant/4th respondent has filed W.P.M.P.No.34770 of 2016 in W.P.No.26285 of 2016 seeking to grant permission to the Tobacco Board to sell the seized tobacco and permit the Tobacco Board to keep the sale proceeds in a separate account. At this stage, it is informed by the learned Standing Counsel for the Tobacco Board that the auction of tobacco should be conducted only in Karnataka, as they do not have power to auction in the open market. In view of the same, it is directed that the 3rd respondent police should hand over the seized tobacco to the Vigilance Officer, Tobacco Board, Guntur District, for disposal of the same and the Tobacco Board is permitted to conduct the auction of the tobacco in Karnataka and the Tobacco Board is permitted to deduct the expenses incurred for transporting the tobacco from the 3rd respondent police station to the place where they want to conduct the auction of the tobacco, and the remaining amount of sale proceeds shall be deposited in a separate account of the Tobacco Board till the conclusion of trial against the petitioners in the concerned Court and the Tobacco Board shall dispose of the said amount only after disposal of the case. Accordingly, the W.P.M.P.No.34770 of 2016 in W.P.No.26285 of 2016 is ordered.

Even though the petitioner in W.P.No.36640 of 2016, the owner of the vehicle, is shown as A-3 in the above said crime, he was not present in the lorry at the time of transportation. Considering the said fact and in view of the fact that the detention of the vehicle in the 3rd respondent police station would certainly cause prejudice to the petitioner, the W.P.No.36640 of 2016 is disposed of by directing that the lorry bearing

No.AP 5X 6424 shall be released for interim custody of the petitioner, subject to final orders to be passed at the time of disposal of main case, on his executing a personal bond for Rs.50,000/- (Rupees Fifty Thousand only) with two sureties for the like sum each and also on production of original R.C. book. It is further directed that the petitioner shall not alienate the vehicle, shall not change the physical features of the same till the disposal of the criminal case and further he shall undertake to produce the vehicle as and when required by the Court concerned. The said order will not stand in the way of the confiscation proceedings.

Accordingly, all the Writ Petitions are disposed of and the W.P.M.P.No.34770 of 2016 in W.P.No.26285 of 2016 is ordered. There shall be no order as to costs. Miscellaneous petitions, if any, pending in these writ petitions, shall stand closed.



RAJA ELANGO,J

Date: 3rd November, 2016

KL

THE HONOURABLE SRI JUSTICE RAJA ELANGO



**WRIT PETITION Nos.26285, 36640 & 36644 of 2016 &
W.P.M.P.No.34770 of 2016 in W.P.No.26285 of 2016**

Date: 3rd November, 2016