

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.16059 OF 2016

ORDER:

This criminal petition, under Section 457 read with Section 482 of Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed to set aside the order passed by the second respondent vide Proceedings in Cr.No.B1/388/2016 dated 31.10.2016, whereby the second respondent directed the petitioner to furnish Bank guarantee for Rs.13,000/- to release the Hero Honda Splendor Pro bearing No.AP 22 S 3588 with PCOR No.94 of 2016 pending on the file of Additional Judicial Magistrate of First Class at Kalwakurthy.

If the vehicle involved in an offence punishable under Section 34(e) of A.P. Excise Act, 1968, the Deputy Commissioner, Prohibition and Excise, alone is competent to release the vehicle. In earlier Criminal Petition No.14251 of 2016 this Court issued a direction to the petitioner to file an application before the Deputy Commissioner of Excise, by order dated 28.09.2016. The petitioner submitted an application for release of the vehicle under Section 457 Cr.P.C. before the second respondent. But, while ordering release of the vehicle insisted the petitioner to furnish security by way of Bank guarantee by the impugned order.

Now the contention of the petitioner before this Court is that the petitioner is a poor man and he is not in a position to furnish Bank guarantee as directed.

It is not an excuse to relax such condition, while the petitioner is maintaining two wheeler motor cycle, his capacity

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can be estimated. Therefore, it is not a ground to set aside the proceedings passed by the second respondent while exercising jurisdiction under Section 482 Cr.P.C. Hence, I find no ground to quash the proceedings.

Accordingly, the criminal petition is dismissed at the stage of admission.

Miscellaneous petitions, if any, pending in these transfer criminal petitions shall stand closed.

Date: 17.11.2016
BV

M. SATYANARAYANA MURTHY, J

