

THE HON'BLE SRI JUSTICE M.S.K.JAI SWAL

CRIMINAL PETITION No.12265 of 2016

ORDER:

The criminal petition is filed under Section 482 r/w.457 Cr.P.C. to direct the concerned authority to release the vehicle i.e., Mahindra & Mahindra Limited Maxi Cab Scorpio, white colour, bearing registration No.AP 24-TB-5005, which was seized in connection with Cr.No.121/2016 of Achampet P.S. Mahabubnagar District, registered for the offences punishable under Sections 34(a) (e) and (g) of A.P.Excise Act.

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor, representing the State.

The petitioner sought for return of the vehicle for interim custody through C.F.No.4810/2016. The petition was returned by the trial Court *inter alia* on the ground that it has no jurisdiction.

The Apex Court in *State (NCT of Delhi) v. Narender*¹ held that the Magistrate or High Court could not have passed orders for release of the property seized in connection with prohibition and excise offences, and the Deputy Commissioner of Prohibition & Excise concerned is the exclusive Authority and has power to deal with all the aspects relating to confiscation of the property seized in relation to prohibition and excise offences. Therefore, the appropriate authority to order release of the vehicle is the Deputy Commissioner of Excise. The petitioner claims to be owner of the offending vehicle and hence it is appropriate to return the vehicle to the petitioner for interim custody, as the non-user of the vehicle is likely to spoil the vehicle.

¹ (2014) 13 SCC 100

In that view of the matter, the petitioner is directed to file appropriate application before the appropriate authority for release of the vehicle within a period of 15 days from today and on filing such application, the concerned authority shall dispose of the same within one week therefrom, in accordance with law.

The Criminal Petition is accordingly disposed of.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAI SWAL,J

Date: 28.09.2016

Dsr

Note:

Furnish copy tomorrow

B/o

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