

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.38546 OF 2016

Dated:16.11.2016

Between:

Chintam Balaji Reddy,
S/o. C. Harinatha Reddy,
Aged about 38 years, R/o.D.No.31/120-9A,
Alimabad Street, Rayachoty,
YSR Kadapa District

.. Petitioner

And

The State of Andhra Pradesh, rep., by its
Commissioner, Prohibition and Excise
Department, Hyderabad and another

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No.38546 OF 2016****ORDER:**

The petitioner's vehicle bearing No.AP 04TV 0137 was subjected to checking on 15.03.2011. It was alleged that the police found five bottles each containing 750 ml. liquor, which was purchased on low price and being transported with an intention to sell the same at higher price. Crime No.20 of 2011 was registered for the offence under Section 34 (a) of the Andhra Pradesh Excise Act (for short, 'the Act') and the vehicle was seized. The petitioner was an accused in C.C.No.180 of 2011 on the file of the Additional Judicial Magistrate of First Class, Rayachoty and vide judgment dated 18.11.2014, the petitioner was acquitted.

2. During the pendency of criminal proceedings and confiscation proceedings, the petitioner sought for release of the subject vehicle and the same was released on 09.07.2011 on his furnishing bank guarantee for Rs.56,000/-.

3. This Writ Petition is filed seeking a direction to return the bank guarantee furnished by the petitioner at the time of release of the subject vehicle on the ground that he was acquitted in the criminal case.

4. Learned counsel for the petitioner submits that the petitioner submitted a representation on 17.10.2016 before the Deputy Commissioner along with a copy of the judgment dated 09.07.2011 passed in C.C.No.180 of 2011 on the file of the Additional Judicial Magistrate of First Class, Rayachoty, which has become final, stating that he was acquitted in the said criminal case, and sought return of the bank guarantee. In spite of his

repeated requests, the Deputy Commissioner is not releasing the bank guarantee.

5. Learned Government Pleader for Prohibition and Excise submits that merely because the petitioner is acquitted is not automatically entitled to closure of confiscation proceedings and only when the said proceedings are ended in favour of the petitioner, then he is entitled to return of the bank guarantee. In support of his contention, he placed reliance on the provision of Section 46-E of the Act.

6. A bare perusal of Section 46-E of the Act would make it clear that acquittal in criminal case has no consequence on the pending confiscation proceedings and the same will be continued. It is not in dispute that the confiscation proceedings are not closed and are still pending.

7. Since the confiscation proceedings are pending, no direction for return of the bank guarantee can be granted to petitioner, at this stage. The petitioner has to work out his remedies only after conclusion of the confiscation proceedings, if such proceedings end in his favour.

8. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, filed in this Writ Petition shall stand closed.

P. NAVEEN RAO, J

Date: 16.11.2016

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