

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.26963 of 2007

ORDER:

The petitioner is stated to be the owner of Ambassador Car bearing registration No.AP 35T 4590, which was being run as a Taxi. While the Taxi was being plied, the Sub-Inspector of Police, Denkada Police Station seized the vehicle along with some duty paid liquor on 19.04.2004 and registered a case in Cr. No.52 of 2004 in Denkada Police Station. The offence was registered under Section 34(a) of the A.P. Excise Act and Section 123 (1) (a) of the Representation of Peoples Act. A charge sheet was filed in C.C. No.320 of 2004 before the Special Judicial First Class Magistrate (Excise), Vizianagaram. The driver of vehicle was acquitted after trial. Since the vehicle of petitioner was seized in connection with the crime, on application of the petitioner, on passing an order by respondent No.1 dated 24.05.2004 the petitioner got release of the vehicle by furnishing a bank guarantee for an amount of Rs.1,22,000/-. Thereafter respondent No.1 passed an order on 15.10.2004 confiscating the said vehicle. Challenging the same, the petitioner preferred an appeal to respondent No.2, who noticed that the quantity involved is within the permissible limit and the case can be compoundable. He accordingly passed an order on 21.04.2005 directing respondent No.1 to take necessary action as per the A.P. Prohibition (Compounding of Offences) Rules, 2000. Respondent No.1, instead of compounding the offence as directed by respondent No.2, passed an order on 17.10.2007 directing the petitioner to handover the vehicle to the Sub-Inspector of Police, Denkada Police Station for taking further action under Section 46(f) of the A.P. Excise Act, 1968. Challenging the said order, the

present writ petition was filed.

This Court by order dated 18.12.2007 granted interim stay, which was made absolute on 23.06.2010.

In the circumstances, the order of the respondent No.1 dt. 17.10.2007 is set aside and he is directed to consider the order passed by respondent No.2 dated 21.04.2005 in respect of the vehicle bearing No.AP 35T 4590, owned by the petitioner, and pass appropriate orders in accordance with law within a period of three months from the date of receipt of a copy of this order.

Accordingly, this Writ Petition is allowed. No order as to costs. Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

A.RAMALINGESWARA RAO, J

17.03.2016
MVA