

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER**

Writ Appeal No.92 of 2017

JUDGMENT: (per Hon'ble the Acting Chief Justice Sri Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.46823 of 2016 dated 02.01.2017.

The appellant herein is the petitioner in the Writ Petition. On the ground that the vehicle was found carrying 400 kgs. of black jaggery (used for the purpose of manufacture of illicit distilled liquor), the Deputy Commissioner of Prohibition and Excise, Warangal, by notice dated 27.12.2016, informed the petitioner that the Station House Officer, Prohibition and Excise Station, Kataram had submitted the Motor Vehicle Inspector's report regarding the upset price value, of the seized vehicle, as Rs.4,30,000/-. The petitioner was directed to furnish a Fixed Deposit Receipt or Bank Guarantee for Rs.4,30,000/-, towards the value of the vehicle along with the trolley, within 7 days failing which confiscation proceedings of the vehicle would be held without any further notice.

Sri V.Venkateswarlu, Learned Counsel for the appellant, would draw our attention to the panchanama wherein the driver of the vehicle is said to have stated that he was carrying black jaggery without the owner's knowledge.

It is not in dispute that the Excise authorities have been conferred power under the Act and the Rules to confiscate the vehicle, transporting black jaggery to be used for the purpose of manufacture of illicitly distilled liquor. The vehicle is said to be of 2014 year make, and it is not even contended before us that the value, determined as Rs.4,30,000/-, is excessive. All that Sri V.

Venkateswarlu, Learned Counsel for the appellant, would submit is that the petitioner is innocent, and is unaware of the driver's involvement in transportation of black jaggery. These are all matters for consideration in the confiscation proceedings, to be initiated against the petitioner, by the respondents herein. As against the impugned notice, whereby the petitioner was called upon to furnish a bank guarantee/fixed deposit receipt for Rs.4,30,000/-, the Learned Single Judge has, in the order under appeal, granted liberty to the petitioner to furnish a fixed deposit/bank guarantee for Rs.2,00,000/-, and to furnish security of immovable property standing in his name for the balance. Sri V.Venkateswarlu, Learned Counsel for the appellant, would request this Court, atleast, to substitute the condition that the petitioner should furnish immovable property, standing in his name, with third party security.

Learned Government Pleader for Prohibition and Excise would, however, submit that, if third party security is permitted to be furnished, it would be impossible for Excise Officials to recover the said amount from third parties; and the Learned Single Judge had, in fact, protected the petitioner's interest granting him the relief of furnishing bank guarantee/fixed deposit only for Rs.2,00,000/-, and immovable property security for the balance.

In proceedings, under Article 226 of the Constitution of India, we would not, ordinarily, interfere with the discretion exercised by the authorities with regards the security to be furnished for being granted interim custody of the vehicle found transporting black jaggery to be used in the manufacture of illicitly distilled liquor. The scope of interference in an intra-Court appeal, under Clause 15 of the Letters Patent, is limited. Save in cases where the order under appeal suffers from a patent error, no interference is called for. The

order of the Learned Single Judge modifying the impugned order, and permitting the petitioner to furnish bank guarantee/fixed deposit for Rs.2,00,000/- and to furnish immovable property security standing in his name for the balance, cannot be said to suffer from any such infirmity. We see no reason, therefore, to interfere with the order under appeal.

The Writ Appeal fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. No costs.

RAMESH RANGANATHAN, ACJ

Dr.SHAMEEM AKTHER, J

Date:18.01.2017.
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