

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.6959 OF 2017

ORDER:

The writ petition is filed questioning the action of the 2nd respondent in not releasing the goods vehicle bearing No.TS-03-UB-0423 of the petitioner seized by the 3rd respondent in COR No.02/2017 dated 13-01-2017 of Prohibition and Excise Station, Mothkur on the ground of transporting jaggery and alum in the goods vehicle is highly arbitrary, bad and illegal and consequently direct the respondents to release the said vehicle.

It is the case of the petitioner that the petitioner is only a transporter and he has not participated in the commission of excise offence and he being an innocent transporter who has purchased the vehicle for eking out his livelihood on obtaining loan and the condition imposed by the respondents is onerous and thus he seeks indulgence of this Court.

Having considered the submission made by the learned counsel for the petitioner and the learned Government Pleader and on perusal of the relevant provisions, it may be noted that the jaggery is one of the items, which is notified under the Essential Commodities Act, 1955. In the present case, it is the case of the respondents that about 3000 kgs of

black jaggery and 40 kgs of alum are being transported by the petitioner and was intercepted and a case was registered with the Judicial First Class Court. In other words, the petitioner is being prosecuted for an excise offence.

Subject to the final outcome of the case and considering the fact that the petitioner had purchased the vehicle in question under a hire purchase agreement under which he is required to pay monthly instalments, the writ petition is being disposed of directing the respondents to release the seized vehicle bearing No.TS-03-UB-0423 of the petitioner, forthwith, on petitioner furnishing a Fixed Deposit Receipt of 50% of the value of the vehicle as assessed by the Motor Vehicle's Inspector, Nalgonda, pending finalisation of the Excise Case. Petitioner shall also furnish an undertaking that he will not alienate the vehicle or create any third party interest over it and will not alter its nature, pending disposal of the proceedings before the competent authority.

With the above direction, the writ petition is disposed of. No order as to costs.

Miscellaneous Petitions pending, if any, in this writ petition shall stand closed.

CHALLA KODANDA RAM, J

March 01, 2017

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