

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.11612 OF 2010

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:-

“to issue any order or direction, writ or writs, more particularly one in the nature of Writ of Mandamus declaring the orders of the 1st respondent made in CR.No.1675/2010/CPE/D4, dt.3-5-2010 in dismissing the same and confirming the orders of the 2nd respondent in RC.No.138/2009/A4, dt.27-1-2010 for confiscation of the car bearing No.TN 20 AJ 0009 is illegal, arbitrary and against evidence and record and violation of the principles of natural justice and set-aside the same and consequently direct the respondents to release the vehicle Car bearing No.TN 20 AJ 0009 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice and equity.”

2. When the matter is taken up for hearing, it is informed by the learned counsel for the petitioner that the crime *vide* PR No.112/2009 registered by respondent No.3 against the petitioner and A-1 under Section 34 of the A.P. Excise Act, 1968 was numbered as C.C.No.29 of 2010 on the file of the Judicial First Class Magistrate of Prohibition and Excise, Nellore and in that case, the petitioner and A-1 were convicted *vide* judgment, dated 09.01.2012. Challenging the same, the petitioner and A-1 filed Criminal Appeal No.21 of 2012 before the VI Additional District and Sessions Judge, S.P.S.R. Nellore District and the same was allowed on merits *vide* judgment, dated 07.04.2015. Hence, he

prays to set aside the order, dated 03.05.2010, in CR.No.1675/2010/CPE/D4 passed by respondent No.1.

3. This Court, by an interim order, dated 26.05.2010, directed the respondents to release the vehicle i.e., Car bearing No.TN 20 AJ 0009 to the petitioner on his furnishing bank guarantee to the value of the vehicle as assessed by the Motor Vehicle Inspector. Accordingly, the petitioner had executed the bank guarantee to the value of the vehicle as assessed by the Motor Vehicle Inspector. Considering all the facts and circumstances of the case and in view of the fact that the criminal case against the petitioner ended in acquittal, the order, dated 03.05.2010, in CR.No.1675/2010/CPE/D4 passed by respondent No.1 is hereby set aside. The petitioner is permitted to take possession of the vehicle i.e., Car bearing No.TN 20 AJ 0009 and the respondents are directed to release the bank guarantee to the petitioner which was furnished by him earlier.

4. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

5. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE RAJA ELANGO

Date: 11.09.2017
AMD

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