

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.38791 of 2018

ORDER:

The petitioner is accused in Crime No.157 of 2018 of Gudivada Taluq Police Station, Krishna District, registered for the offences punishable under Sections 286 read with 188 IPC, dated 22.10.2018. It is on the allegation that beyond the permissible limit of the licence to store the firecrackers issued by the order of the Revenue Divisional Officer, Gudivada, Krishna District, (RDO) it is stored and it is endanger to the human for life nearby the dwellers, and thereby the offences attract. There is a seizure of the stock showing beyond the permissible limit from the order of the RDO.

2. The grievance is the very registration of First Information Report is not sustainable and the other grievance is the seizure of the entire stock is also not sustainable.

3. Learned Government Pleader for Home submits that the ingredients of both the sections *prima facie* applicable and the stock once violated the order of the permissible limit by the RDO, nothing to interfere for the seizure. As the seizure is for the violation of entire stock and cannot be limited to the stock permissible by the order of the RDO for the very violation of the same and thereby sought for dismissal of the writ petition.

4. Heard and perused the material on record.

5. So far as the sustainability of the crime concerned, from perusal of the provisions, there is nothing, at this stage, to interfere that too when both the offences are bailable. The remedy is in the event of arrest elsewhere, leave about the police strictly follow Section 41-A Cr.P.C. and the guidelines of the Apex Court in **Arnesh Kumar Vs. State of Bihar**¹. So far as the seizure of the entire stock concerned, the order of the RDO prescribes the permissible limit admittedly from the very FIR. Once such is the case, the violation is only to the excess stock, thereby the respondents are directed to cause return the stock up to the permissible limit of the order of the RDO and the seizure remaining to the above is only upheld, without prejudice to the contest in the crime.

6. With the above observations, the writ petition is disposed of.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

Dr. B. SIVA SANKARA RAO, J

31st October 2018

Note :

Issue C.C. by evening.

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¹ (2014) 8 SCC 273