(2022) 11 TEL CK 0019

In the Telangana High Court

Case No : Writ Petition No. 40698 Of 2022

Sheetha Parvathalu APPELLANT

Vs

State Of Telangana And 2 Others RESPONDENT

Date of Decision : 10-11-2022

Acts Referred:
Andhra Pradesh Excise Act, 1968 — Section 34(a), 46

Citation : (2022) 11 TEL CK 0019

Hon'ble Judges : B. Vijaysen Reddy, J

Bench : Single Bench

Advocate : Pole Vishnu

Final Decision : Disposed Of

Judgement

1. This writ petition is filed to declare the action of the 3rd respondent in not releasing the petitioner’s vehicle i.e., Swift vehicle bearing Registration No. TS 08 EA 4353 seized pursuant to registration of FIR.No.159 of 2022 with Chinthapally Police Station, Nalgonda District, as illegal and arbitrary.

2. It is the stated by the petitioner that on the eve of Diwali festival, several family members came to his native village. On 24.10.2022, his son Seetha Ramulu took his vehicle to purchase liquor bottles, as a get-together was arranged in his house on the occasion of Diwali festival. After purchasing liquor bottles from a licenced shop, while the son of the petitioner was returning in the said vehicle and when reached Vinjamoor Cross Croad Check Post, the 3rd respondent, who was conducting vehicles checking, found liquor bottles in the vehicle belonging to the petitioner. There was no violation of the provisions of the Excise Act, 1968, much less Section 34 (a) of the Act. It was alleged in the FIR that liquor bottles were purchased for sale, but such allegations are totally false.

3. It is further stated that the petitioner is unable to attend his day-today works due to seizure of the vehicle and he had been facing inconvenience. Since 24.10.2022, the vehicle had been lying in the premises of Chinthapally Police

Station, and if the vehicle is kept idle, its value diminishes. The petitioner approached the 3rd respondent seeking release of the vehicle and offered to furnish sufficient third party surety, but he was informed that the 2nd respondent is the competent to release the vehicle.

4. In the written instructions received by the learned Assistant Government Pleader, it is stated that KF Light Beer bottles (24), King Fisher Strong Beer bottles (24), O.C 90 ml bottles (60), O.C 180 ml bottles (30), I.B.Half bottles (5) and Royal Stage of 180 ml bottles (5) were being transported in the subject vehicle. The vehicle was seized on 24.10.2022 during vehicle checking conducted by the 3rd respondent pursuant to registration of FIR.No.159 of 2022. The contraband along with the vehicle was deposited in the office of the Deputy Commissioner of Prohibition & Excise, Nalgonda Division, on 07.11.2022. Show cause notice was issued on 09.11.2022.

5. Heard learned counsel for the petitioner and the learned Assistant Government Pleader for Prohibition and Excise.

6. Taking into account the fact that the petitioner was not driving the vehicle when it was found transporting the alleged contraband and that it is the personal vehicle of the petitioner, respondent No.3 is directed to release the vehicle i.e., Swift bearing Registration No.TS-08-EA-4353 to the petitioner subject to the petitioner furnishing bank guarantee for a sum of Rs.50,000/- (Rupees Fifty Thousand only). The release of the vehicle shall be subject to outcome of confiscation proceedings under Section 46 of the Excise Act, 1968. The petitioner shall neither alienate nor change the features of the vehicle. The confiscation proceedings shall be disposed of by the 2nd respondent within a period of two months from the date of receipt of a copy of this order.

7. Subject to the above directions, the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending shall stand closed.