

**THE HON'BLE SRI JUSTICE BATTU DEVANAND**

**WRIT PETITION No.21759 of 2021**

**ORDER :**

Heard learned counsel for the petitioner and learned Government Pleader for Prohibition and Excise and perused the material available on record.

The case of the petitioner is that he is the owner of the Vehicle i.e., Innova Car bearing registration No.AP 37 CG 6669 and he is using the said vehicle for his personal works. To his utter surprise, he has received proceedings in C.No.412/C4/DC/2020, dated 30.09.2020 from the 3<sup>rd</sup> respondent asking him to show cause why the said vehicle should not be confiscated as the same was involved in Crime No.205 of 2020 on the file of the Station House Officer, Chillakallu Police Station which was registered for the offence punishable under Section 34 (a) of Andhra Pradesh Excise Act, 1968 for transporting 27 NDPL/DPL bottles of various brands and the said vehicle was seized in connection with the said offence.

Learned counsel for the petitioner submits that the petitioner has submitted explanation on 23.10.2020 and the same was sent through registered post on 24.10.2020. Thereafter, the 2<sup>nd</sup> respondent has issued impugned proceedings dated 27.01.2021 and the said proceedings disclosed that the vehicle of the petitioner i.e., Innova Car bearing registration No.AP 37 CG 6669 is involved in Crime

No.205 of 2020 and the proceedings dated 27.01.2021 confiscating the seized vehicle.

Learned counsel for the petitioner further submits that the vehicle of the petitioner i.e., Innova Car bearing registration No.AP 37 CG 6669 has not been seized in connection with Crime No.205 of 2020 as alleged in the impugned order. The vehicle is with the petitioner on the date of seizure in the impugned order and there is no mention about the explanation submitted by the petitioner. Accordingly, learned counsel for the petitioner sought to allow this writ petition as it is passed in violation of principles of natural justice.

On the other hand, the learned Government Pleader for Prohibition and Excise, on instructions would submit that in the mediators report drafted at the time of registering the case in Crime No.205 of 2020, the vehicle particulars including the registration number of the vehicle was not noted. He also brought to the notice of this Court that immediately after seizure of the vehicle the 3<sup>rd</sup> respondent has released the vehicle in favour of the petitioner on his personal undertaking.

Having heard the submissions of the respective counsels and upon perusal of the material available on record, it is clear that the vehicle of the petitioner i.e., Innova Car bearing registration No.AP 37 CG 6669 was seized by the 3<sup>rd</sup> respondent in connection with the Crime No.205 of 2020 and the said vehicle was released in favour of the petitioner. Immediately, upon careful examination of the impugned order

dated 27.01.2021 passed by the 2<sup>nd</sup> respondent, it is clear that there is no any mention about considering the explanation submitted by the petitioner. The petitioner filed a copy of the explanation and the registered post receipt as material papers along with this writ petition to establish that the petitioner has sent the explanation by way of registered post.

In view of the above, in the considered opinion of this Court, the impugned order passed by the 2<sup>nd</sup> respondent without considering the explanation submitted by the petitioner and as such the impugned order is liable to be set aside.

Accordingly, this writ petition is allowed with the following directions:

“1) The impugned order issued by the 2<sup>nd</sup> respondent in C.No.412/C4/DC/2020, dated 27.01.2021 is hereby set aside.

2) The 2<sup>nd</sup> respondent is directed to consider any further information or documents to be produced by the petitioner before passing final orders.”

There shall be no order as to costs.

As a sequel, all the pending miscellaneous applications shall stand closed.

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**JUSTICE BATTU DEVANAND**

Date: 30.09.2021

**Note: Furnish C.C. by tomorrow.**

B/o.

VSL

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*Date : 30-09-2021*

VSL

