

**THE HONOURABLE SRI JUSTICE RAJA ELANGO**

**CRIMINAL APPEAL No.626 OF 2015**

**JUDGMENT:**

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This Criminal Appeal is preferred by the appellant challenging the Judgment, dated 28.11.2012, passed in S.C.No.9 of 2012 by the Court of the Special Judge for Trial of Cases under NDPS Act-cum-I Additional Sessions Judge, at Khammam, whereby the learned Judge found the accused not guilty and acquitted the accused therein and directed that the vehicle involved in the said crime shall be confiscated to the State after Appeal time is over.

Heard and perused the material available on record.

The brief facts of the case are as follows. The appellant is the owner of the vehicle concerned and that the said vehicle was seized by the respondent/police in connection with illegal transportation of Ganja and a case is registered against some accused before the Court below. The Court below, after due trial, acquitted the accused and while passing the acquittal order, directed that the vehicle shall be confiscated to the State. Aggrieved over the same, the appellant filed the present criminal appeal.

Admittedly the appellant herein is the accused before the Court below and even during the trial also, he filed an application for release of the vehicle concerned, the same was dismissed by the Court below as the trial is pending. Now that the trial is over, the accused is acquitted and the vehicle is also marked before the Court below. It is true that even though the accused is acquitted of the charges, the vehicle can be confiscated to the State. However, considering the facts and circumstances of the case, the vehicle, i.e., Tata Spacio bearing No.MH 26 S 0919 shall be released to the petitioner on execution of a personal bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with one surety for a like sum to the satisfaction of the Magistrate concerned, subject to production of all the documents relating to the vehicle in question. The petitioner shall also give an undertaking not to sell, alter or alienate the said vehicle and produce the same as and when required.

The Criminal Appeal is accordingly allowed. Miscellaneous applications, if any pending in this appeal, shall stand dismissed.

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**JUSTICE RAJA ELANGO**

19.07.2016

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