

**HON'BLE SMT JUSTICE ANIS**  
**CRIMINAL REVISION CASE No.218 OF 2008**

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**ORDER:**  
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This Criminal Revision Case under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C') is filed by the revision petitioner herein challenging the judgment dated 16.03.2006, passed by the V Additional Sessions Judge, West Godavari at Eluru, in CrI.A.No.163 of 2003, whereunder and whereby the sentence passed against the revision petitioner herein for the offence punishable under Section 9(1) of the A.P. Gaming Act, vide the judgment dated 21.07.2003 in S.T.C.No.318 of 2001 by the II Additional Judicial Magistrate of First Class, Eluru, was confirmed.

2. The revision petitioner herein is the accused and respondent herein is the complainant in S.T.C.No.318 of 2001 before the trial Court. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the S.T.C. before the trial Court.

3. The case of the prosecution is that Pedapadu police laid the charge sheet against 94 accused in S.T.C.318 of 2001 for the offence under Section 9(1) of the A.P.Gaming Act(for short 'the Act') on the file of II Additional Judicial Magistrate of First Class, Eluru. Petitioner is one of the accused. On 21.11.2001 at about 5.30 p.m. raid was conducted on DAT Family club, Vatluru by the Sub-Divisional Police Officer of Jangareddigudem along with other police officers and arrested 94 persons including the petitioner on the charge of playing cards by betting money and seized the cash of Rs.1,86,670/- and 16 sets of playing cards from them.

4. The learned II Additional Judicial Magistrate of First Class, Eluru, took cognizance of the case as S.T.C.No.318 of 2001 under Section 9(1) of the Act. During trial, to prove the case of prosecution, PWs.1 to 4 were examined and M.Os.1 and 2 were marked.

5. After closure of the prosecution evidence, accused was examined under Section 313 Cr.P.C putting all incriminating material available against him. Accused denied the material evidence and reported no oral or documentary evidence on his behalf.

6. Trial Court after considering the evidence of P.Ws.1 to 4 and M.Os.1 and 2, found guilty of the accused and convicted under Section 4 of the Act and sentenced him to pay a fine of Rs.300/-, in default, to suffer Simple Imprisonment for seven days. The trial Court also passed the orders of confiscation of M.O.1, i.e., cash of Rs.1,86,670/- to the State of Andhra Pradesh.

7. Aggrieved by the judgment of sentence passed by the trial Court, the petitioner-A1 filed Criminal Appeal No.163 of 2003. The appellate Court dismissed the appeal confirming the conviction and sentence recorded by the trial Court in S.T.C.No.318 of 2001 on the ground that the trial Court imposed fine by taking lenient view and there are no grounds to interfere.

8. Aggrieved by the judgment of the appellate Court dated 16.03.2006 in Crl.A.No.163 of 2003, the petitioner-A1 preferred the present revision. Learned counsel for the revision petitioner mainly argued for return of the cash of Rs.1,86,670/- seized at the time of raid, which was confiscated to the State, as he is the owner of the said cash and prayed the Court to pass an order for return of the above amount of Rs.1,86,670/- to the petitioner-accused.

9. On the other hand, the learned Public Prosecutor appearing for the State argued that the amount of Rs.1,86,670/- was seized when accused along with 94 persons playing the cards by betting the money and the said amount does not belong to the petitioner and the trial Court rightly passed the orders of confiscation and the same was confirmed by the appellate Court and petitioner is not entitled for return of the said amount, hence prayed the Court to dismiss the revision petition.

10. Now, the point for determination is --

Whether the petitioner is entitled to set aside the judgment of the appellate Court in Criminal Appeal No.163 of 2003 dated 16.03.2006 as prayed for?

11. **POINT:**

After perusing the evidence on record and after hearing both the sides, A1 along with 94 persons was caught red handed by P.W.1, who is working as SDPO and seized MO.1 cash and MO.2 – 16 sets of playing cards. In the cross-examination of P.Ws.2 to 4, it was suggested that MO.1 belongs to petitioner herein. Except that suggestion, there is no other evidence to show that A1 is managing the club, where the raid was taken place and amount was seized. Further, it is also held by both the Courts that A1 is not the owner of the Club and managing the Club. As per the evidence of P.Ws.2 to 4 when P.W.1 conducted the raid, petitioner and other accused playing 'KOTHAMUKKA' by betting money and they admitted that an amount of Rs.1,86,670/- was seized from all the players. Further, there is no claim from the management of the DAT Club for return of MO.1. In these circumstances, the claim of the petitioner for return of the amount of Rs.1,86,670/- which was confiscated to the State cannot be accepted and the petitioner is

not entitled for return of the said amount. In the revision petition the petitioner has not raised any such plea for return of the amount in the grounds of revision. Both the Courts concurrently gave finding that the petitioner-A1 committed the offence under Section 4 of the Act and findings of both the Courts below needs no interference and the revision petitioner has not made out any case to set aside the judgment passed by the appellate Court in Crl.A.No.163 of 2003 confirming the orders passed by the trial Court in S.T.C.No.318 of 2001.

12. Hence, the Criminal Revision Case is dismissed. Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

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**ANIS,**  
**J**

Date: 13.03.2015  
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