

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

MONDAY, THE TWENTY FOURTH DAY OF AUGUST
TWO THOUSAND AND FIFTEEN

PRESENT
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL REVISION CASE No.2530 of 2013

Between:

Mankali Siva Prasad

..... PETITIONER/A1

AND

The State, rep.by Senior Intelligence Officer,
D.R.I Hyderabad and another

.....RESPONDENTS

The Court made the following:

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL REVISION CASE No.2530 of 2013

ORDER:

This Criminal Revision Case is filed against the order dated 03.10.2013 in CrI.MP.No.1462 of 2013 in S.C.No.172 of 2009 on the file of the Metropolitan Sessions Judge, Hyderabad.

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor for the State.

The facts in brief are that the petitioner is A1. The respondent filed the charge sheet against the petitioner/A1 and another alleging that the petitioner/A1 has contravened the provisions under Sections 8(c) of

NDPS Act, which was punishable under Section 22 of the Act. The charge against the petitioner/A1 was framed under Section 22 of NDPS Act. There is no specific charge as to whether it is under Section 22(a) or 22(b) or 22(c) of NDPS Act.

The petitioner/A1 filed a petition seeking to alter the charge, but the learned trial Court dismissed the said petition, holding that charge has already been framed under Section 22 of NDPS Act.

The contention of the petitioner/A1 is that the trial Court has to frame specific charge against the petitioner/A1, since Section 22 of NDPS Act comprises of three categories, which provide different quantum of punishments, and therefore, unless there is specific charge is framed as to whether the petitioner/A1 has contravened the provisions under Section 22(a) or 22(b) or 22(c) of NDPS Act, it would cause prejudice to the accused. The learned counsel for the petitioner/A1, in support of his contention, relied upon a decision of the Apex Court in ***CBI v. Karimullah Osan Khan***^[1], wherein the Supreme Court held that the charge can be altered at any stage.

A perusal of the charge sheet shows that the prosecution has specifically alleged the offence punishable under Section 22(c) of NDPS Act insofar as the petitioner/A1 is concerned. The trial Court while framing the charges has to see the entire material available on record and then frame appropriate charges against the accused. The charge under Section 22 of the NDPS Act will not answer the requirement, since it has three categories providing three different quantum of punishments.

In that view of the matter, the Criminal Revision Case is allowed. The impugned order dated 03.10.2013 is set aside. The Court below is directed to frame fresh charges against the petitioner/A1 by taking into consideration the entire material available on record under the provisions of NDPS Act.

Pending miscellaneous applications, if any, shall stand closed in consequence.

Date: 24.08.2015
Dsr

[\[1\]](#) 2014 (2) ALD (CrI.) 332 (SC)