

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.2907 of 2015

ORDER:

1. This Criminal Revision Case is filed by the petitioners-A1 and A2 against the judgment dated 4.8.2014 passed in C.C.No.975 of 2012 by the II Additional Chief Metropolitan Magistrate, Hyderabad, which was confirmed by the II Additional Metropolitan Sessions Judge, Hyderabad in CrI.A.No.895 of 2014 vide judgment dated 25.8.2015, insofar as the order of confiscation of M.Os.1 to 4 is concerned.

2. The petitioners were tried in the above C.C. for the offence under Sections 3 and 4 of the A.P. Gaming Act. After fullfledged trial, the trial Court acquitted the petitioners for the said offence. While acquitting the petitioners in the above C.C., the learned trial Judge ordered that M.Os.1 to 4 shall be confiscated to the State after expiry of appeal time. Aggrieved by the said order of confiscation, the petitioners filed the above Criminal Appeal and the said appeal was dismissed. Hence, the petitioners filed this revision.

3. Heard and perused the material available on record.

4. The trial Court passed the order confiscating M.O.1-Net Cash of Rs.1,50,000/-, M.O.2-Net cash of Rs.40,000/-, and M.Os.3 and 4-Cell Phones to the State on the ground that it is not the case of the accused that they are the owners of the amounts seized from them and they never claimed the said amount and cell phones after their arrest nor they have filed any petition under Section 457 Cr.P.C. for return of the property nor they have filed any account details of the amounts which were seized from them. The lower appellate Court confirmed the order of the trial Court.

5. Now, it is the case of the petitioners that once they are acquitted for the offence under the Gaming Act, the money and cell phones seized from them shall be returned to them.

6. It is pertinent to note that the provisions of Section 8 of the Gaming Act clearly indicate the confiscation of the property only in case of conviction of the accused. In the instant case, the petitioners-accused were acquitted. When there is no bar under the provisions of the Act so as to return the seized property to the accused, and when the petitioners-accused were acquitted, this Court is of the view that it is just and proper to return M.Os.1 to 4 to the accused concerned.

7. Accordingly, the Criminal Revision Case is disposed of directing the trial Court to return M.Os.1 to 4 to the petitioners-accused concerned. Consequently, the judgments passed by both the Courts below with regard to the confiscation of M.Os.1 to 4 to the State only are set aside. The miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 26.11.2015

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