

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL APPEAL Nos.630 & 655 OF 2008

-

COMMON JUDGMENT:

Criminal Appeal Nos.630 of 2008 and 655 of 2008, under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), are filed by A-2 and A-1 respectively against the judgment, dated 14.5.2008, in Sessions Case No.12 of 2008 on the file of the I Additional Sessions Judge at Karimnagar whereunder and whereby, the appellants herein/A-2 and A-1 were found guilty of the offences under Section 8(c) read with 20(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the N.D.P.S. Act") and under Section 177 I.P.C., and accordingly, convicted under Section 235(2) Cr.P.C. and sentenced to undergo rigorous imprisonment for a period of six months and to pay fine of Rs.5,000/- each in default, to undergo simple imprisonment for a period of three months for the offence punishable under Section 8(c) read with 20(b) of the N.D.P.S. Act, and to pay a fine of Rs.1,000/- each for the offence punishable under Section 177 I.P.C.

2. The brief facts that are necessary for disposal of the present appeals may be stated as follows:

On 22.9.2007, at 8.00 hours, when P.W.10 was attending his duty in the police station, P.W.1 sent a written complaint stating that as per the instructions, he along with other staff members left for vehicle checking on that day at 6:00 A.M. and while they were checking R.T.C. bus bearing No.AP-10-Z-6036, found the accused in suspicious circumstances and on their enquiry, they revealed their identity as Gaddam Ratnamma, W/o.Mallaiah and Gaddam Sarojana, W/o.Sammaiah. On search, they found three bags. A-1 was in

possession of one bag labelled as Vimal Gutka and on opening the same, they found one tear black and blue lining lungi covered with and underneath in the bag, noticed four polythene white coloured bags filled with ganja. A-2 was in possession of two bags of which one bag is black and maroon coloured made of velvet cloth and on opening the same, they noticed two polythene covers with ganja and in the other bag, three polythene covers filled with ganja. On receipt of the information, P.W.10 registered a case in Crime No.76 of 2007 under Section 8(c) read with 20(b) of the N.D.P.S. Act and sent requisition to P.W.7 - M.R.O. for conducting panchanama. Then, P.W.10 proceeded to the place of offence and secured the presence of passengers who boarded the said bus, and examined and recorded the statements of witnesses and also drafted rough sketch in the presence of P.W.7 and L.W.16 and informed the Depot Manager, A.P.S.R.T.C., Manthani Depot about this issue and requested the bus to be detained till the Tahsildar visits the same. On receipt of the information, P.W.7 Tahsildar visited the place of offence at 13.00 hours and got photographed the scene of offence with accused and contraband along with P.W.4 and secured two panch witnesses – L.W.7 and P.W.5 and got weighed the ganja kept in the polythene covers containing 2.50 grams each. He seized the said contraband and drawn samples in the presence of mediators. He also seized the tickets which were torn by A-2 and thrown it on spot. P.W.10 took the accused into custody and after completion of the arrest formalities, remanded them to judicial custody. He deposited the property on 25.9.2007 for forwarding the same to chemical analysis and under a letter of advice and requisition. After completion of investigation, police filed the charge sheet.

3. After filing the charge sheet, the learned Sessions Court has taken cognizance of the offences under Section 8(c) read with 20(b) of the N.D.P.S. Act and Section

177 I.P.C.

4. The learned Sessions Court framed charges under Section 8(c) read with 20 (b) of the N.D.P.S. Act and under Section 177 I.P.C. against the accused.
5. When the above charges were read over and explained to the accused in Telugu, they pleaded not guilty and claimed to be tried.
6. To substantiate the charges, the prosecution examined P.Ws.1 to 10 and got marked Exs.P-1 to P-12 besides material objects – M.Os.1 to 6. No oral or documentary evidence was adduced on behalf of the accused.
7. The trial Court, after appreciating both oral and documentary evidence on record, found the accused guilty of the charges with which they were charged and accordingly, convicted and sentenced them as stated supra. Challenging the same, the present appeals are filed by A-2 and A-1 respectively.
8. Heard and perused the material available on record.
9. After arguing for sometime, learned counsel appearing for the appellants confined his arguments only to the extent of question of sentence and prayed to reduce the sentence of imprisonment imposed by the trial Court.
10. Considering the facts and circumstances of the case and the submission of the learned counsel for the appellants that the appellants have already suffered a substantial period in prison, this Court is inclined to modify the sentence of imprisonment.
11. In the result, the conviction imposed against the appellants/A-2 and A-1 in the judgment, dated 14.5.2008, in Sessions Case No.12 of 2008 on the file of the I Additional Sessions Judge at Karimnagar for

the offences under Section 8(c) read with 20(b) of the N.D.P.S. Act and Section 177 I.P.C. is confirmed. However, the sentence of imprisonment imposed by the trial Court for the said offences is modified to the period which the appellants/A-2 and A-1 have already undergone, while maintaining the sentence of fine.

12. Accordingly, both the Criminal Appeals are partly allowed.

13. Miscellaneous petitions pending, if any, in these Criminal Appeals shall stand closed.

JUSTICE RAJA ELANGO

12.8.2016
AMD

THE HONOURABLE SRI JUSTICE RAJA ELANGO

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

-
-
-

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

CRIMINAL APPEAL Nos.630 & 655 OF 2008

-
-
-

Date: 12.8.2016

AMD