

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.2096 of 2016

ORDER:

Assailing the order dated 03.08.2016 passed in CrI.M.P.No.906 of 2016 in NDPS SC No.125 of 2015 by the I Additional Sessions Judge, East Godavari at Rajahmundry, wherein an application filed by the State seeking permission for destruction of kgs. 672.600 grams of ganja was allowed.

Facts in brief are as follows:

On 23.05.2015 at 10.00 a.m. on receipt of credible information, the Inspector of Police organized a raid along with his staff and mediators, after obtaining necessary authorization, at shop in plot No.22 of Sri Sri Sri Vijaya Durga Mechanic Works at Auto Nagar, behind Vinayaka Temple, Palacherla (V), Rajanagaram Mandal where they found A.1 coming out from the shop after locking it. On suspicion, the Police checked the shop of A.1 and found 18 gunny bags containing ganja weighing about 375 kgs. On enquiry, A.1 is alleged to have confessed commission of the present offence and other offences along with A.2. Later, A.1 lead the Police to his house where police have seized 310 kgs. of ganja from 13 gunny bags concealed in Tata Xenon RX Pick up Goods van bearing No.AP04-TT-8896. Hence, the case.

After filing of charge sheet, the case was committed to the Court of Sessions and the same was numbered as NDPS SC No.125 of 2016 on the file of I Additional Sessions Judge, East Godavari at Rajahmundry. Thereafter, the Prosecution made an application seeking permission for destruction of the case property and the same was strongly opposed by the accused on the ground that property was never produced before the Court and as no property was seized, the Prosecution has come up with the present application when the case is coming for trial.

It is urged that the main reason for making the present application by the Prosecution seeking destruction of ganja is that 672.600 kgs. of ganja kept in the police station is emitting strong odour, which is causing drowsiness and giddiness to the persons present in the Police Station.

Heard Sri D.Suryanarayana, learned counsel for the petitioner, as well as Sri Posani Venkateshwarlu, learned Public Prosecutor for the State.

It is to be noted that the seizure in the present case took place prior to the judgment of the Apex Court in *Union of India v. Mohan Lal*^[1]. Though various grounds are raised by the learned counsel for the petitioner with regard to the procedure to be followed, the learned Public Prosecutor, on instructions, placed before this Court the list of property seized in the present crime on 23.05.2016. The same contains reference to seizure of 685 kgs. of ganja apart from two vehicles and one cell phone.

Learned Public Prosecutor fairly states, across the Bar, that the prosecution is ready and willing to produce the contraband as and when required before the Court and the only reason for seeking destruction of ganja is that it is emitting bad odor and causing ill-health.

In view of the submission made by the learned Public Prosecutor, the impugned order is set aside. The Prosecution shall produce the ganja before the trial Court on the date of hearing, in which event the same shall be marked in accordance with law. Thereafter, it is open to the learned trial Judge to deal with the same in accordance with law. At this stage, the learned Public Prosecutor states that a direction may be given for speedy completion of trial.

Having regard to the facts and circumstances of the case, the trial Court is directed to dispose of NDPS SC No.125 of 2015 at the earliest possible preferably within 2-3 months.

Accordingly, the Criminal Revision Case is allowed. Miscellaneous petitions pending in this revision, if any, stand closed.

JUSTICE C. PRAVEEN KUMAR

26.08.2016
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^[1] (2016) 43 SCD 308