

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.38 OF 2007

JUDGMENT:

This Criminal Appeal, under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), is directed against the judgment, dated 28.4.2005, in Sessions Case No.13 of 2004 on the file of the I Additional Sessions Judge, Karimnagar whereunder and whereby, appellant herein/A-1 was found guilty of the offence punishable under Section 8(c) read with 20(b)(ii) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the N.D.P.S. Act") and was convicted under Section 235(2) Cr.P.C. and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.10,000/- and in default of payment of fine, to undergo simple imprisonment for a period of six months.

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

On 28.12.2003, the Sub Inspector of Police, Ramagundam (L.W.14) along with his men was conducting vehicle checking at Kundanpalli Village. At about 1530 hours, he stopped an Ambassador Car bearing No.AP.13-U-5360. The inmates of the car were found to be in possession of illicit ganja. On questioning, they replied that they were transporting ganja by purchasing it from a person at Warangal. They further confessed that they engaged a car which belongs to one Gattikoppula Sudhakar (A-6) for transporting ganja. On that, L.W.14 issued a requisition to the Mandal Revenue Officer, Ramagundam, who came to the spot and

secured the presence of the panch witnesses. He got the bags weighed through L.W.3 – Gopishetti Venkatesham. The photographs of the accused were also taken. A panchanama was drafted for the entire proceedings. The bags, which were searched, were found to be of ganja weighing 5 kgs. each. Samples of 50 grams from each of the bags were taken. The signatures of the panch witnesses were obtained on the panchanama, bags and the samples. Later, the accused were brought to the police station and a case was registered as Crime No.101 of 2003. Later, the accused were arrested and sent to the Court for judicial remand. After receiving the chemical analysis report, opining that the sample consisted of ganja, charge sheet was filed against the accused for the offence punishable under Section 8(c) read with 20(b)(ii) of the N.D.P.S. Act. The case against A-2 to A-5 was separated and numbered as S.C.No.11 of 2005.

3. The trial Court framed charge under Section 8 (c) read with 20(b)(ii) of the N.D.P.S. Act against A-1 to A-6.

4. When the above charge was read over and explained to the accused in Telugu, they pleaded not guilty and claimed to be tried.

5. To substantiate the charges, the prosecution examined P.Ws.1 to 5 and got marked Exs.P-1 to P-7 besides case properties – M.Os.1 to 8.

6. After closure of the prosecution evidence, the accused were examined under Section 313 Cr.P.C. with reference to the incriminating circumstances appearing against them in the evidence of prosecution witnesses. They denied the same. On

behalf of the accused, none was examined and no documents were got marked.

7. The trial Court, after appreciating both oral and documentary evidence on record, found A-6 not guilty of the offence under Section 8(c) read with 20(b)(ii) of the N.D.P.S. Act and accordingly, acquitted him under Section 235(1) Cr.P.C., but found A-1 guilty of the offence under Section 8(c) read with 20(b)(ii) of the N.D.P.S. Act and accordingly, convicted and sentenced him as stated supra. Challenging the same, the present appeal is filed by A-1.

8. After arguing for sometime, learned counsel for the appellant confined his arguments only to the extent of reducing the sentence of imprisonment imposed by the trial Court against the appellant.

9. From a perusal of the record, it is evident that the appellant has suffered substantial period of sentence in the prison. Considering the said fact and in view of the fact that the offence pertains to the year 2003, this Court is inclined to reduce the punishment imposed by the trial Court against the appellant.

10. In the result, the conviction imposed against the appellant/A-1 in the judgment, dated 28.4.2005, in Sessions Case No.13 of 2004 on the file of the I Additional Sessions Judge, Karimnagar for the offence punishable under Section 8(c) read with 20(b)(ii) of the N.D.P.S. Act is confirmed. However, the sentence of imprisonment imposed by the trial Court for the said offence is

modified to the period which the appellant/A-1 has already undergone, while maintaining the sentence of fine.

11. Accordingly, the Criminal Appeal is partly allowed.

12. Miscellaneous petitions pending, if any, in this Criminal Appeal shall stand closed.

19.9.2016
AMD

JUSTICE RAJA ELANGO

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