

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.1304 of 2007

JUDGMENT:

This Criminal Appeal is filed by the appellant-complainant by invoking the provision under Section 378(4) of the Code of Criminal Procedure (Cr.P.C.), challenging the order of acquittal, dated 11.04.2007, passed in C.C.No.85 of 2006, by the Judicial Magistrate of First Class, Jammalamadugu, whereby and whereunder the 1st respondent/accused was not found guilty of the offence under Section 7(1) read with 23(1)(2) of the A.P. (Agricultural Produce and Live Stock) Markets Act and accordingly acquitted the 1st respondent/accused under Section 255(1) Cr.P.C.

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

The Supervisor of Agricultural Market Committee, Jammalamadugu, filed the present complaint against the accused under Section 25 of the A.P. (Agricultural Produce and Live Stock) Markets Act, 1966 (for short, 'the Act') and condition No.3 of the licence granted under Sub-Section 7 of the Act alleging that the accused obtained licence from the Agricultural Market Committee, Jammalamadugu, under Sub-Section 1 of Section 7 of the Act to transact business in the notified agricultural produce and live stock in the year 2003-2004. According to the condition No.3 of the licence, the accused shall submit to the market committee not later than 25th of every month true and correct information regarding the purchase,

sales and storage of agricultural produce by him in the preceding month to enable the market committee to determine the fee payable by the accused and collect the said fee under Section 12 of the Act. On 04.07.2003, the accused has given undertaking to the market committee that he will render monthly returns and pay market fee as per licence condition but he failed to furnish the information as per condition No.3 of licence for the months of April, 2003 to December, 2003. Hence, the Secretary of the Committee issued notice to the accused on 06.12.2004 and the same is acknowledged by the accused on 06.12.2004. In the said notice, the accused was requested to submit the information in the prescribed proforma within seven days and as such the accused failed to submit the information and a show cause notice was also issued to him on 18.03.2004 that prosecution would be launched against him if he fails to submit the information and the same is acknowledged by the accused on 29.03.2004. In spite of reasonable opportunities given, the accused failed to submit the information as required under condition No.3 of the licence for the year 2003-2004 and thus committed the offences punishable under the Act. On 17.07.2004 the Market Committee has examined the issue in detail through resolution and the Supervisor was also authorized to launch prosecution against the accused through resolution, dated 17.07.2004. Hence, the complaint.

3. The case was taken on file against the accused for an offence under Section 7(1) read with 23(1)(2) of the Act.

4. On appearance of the accused, copies of documents were furnished to the accused as contemplated under Section 207 Cr.P.C. The accused was examined under Section 251 Cr.P.C. for the offence under Section 7(1) read with 23(1)(2) of the Act. The accused denied the offence, pleaded not guilty and claimed to be tried.

5. To substantiate its case, the prosecution got examined P.W.1 and marked Exs.P-1 to P-7.

6. After closure of the prosecution evidence, the accused was examined under Section 313 Cr.P.C. with regard to the incriminating circumstances in the evidence of prosecution witnesses. He denied the same and did not examine any defence witnesses.

7. After evaluating the oral and documentary evidence adduced by the prosecution, the trial Court found the accused not guilty of the offence punishable under Section 7(1) read with 23(1)(2) of the Act and accordingly acquitted him. Aggrieved by the said judgment, the complainant preferred the present appeal.

8. The learned trial Judge acquitted the accused on the ground that the prosecution failed to prove the case beyond all reasonable doubt.

9. After perusing the judgment of the trial Court and also the material available on record, this Court is of the view that the learned trial Judge has appreciated the evidence in the proper perspective and that the findings of the learned trial Judge are in accordance with law and the judgment of the trial

Court does not suffer with any perversity or illegality, necessitating interference by this Court.

10. Further, in a case of acquittal, if the trial Court considered the two views and basing on one of the views, which is in favour of the accused, acquits the accused, normally, the appellate Court will not interfere with the judgment of the trial Court unless and otherwise, the evidence adduced by the prosecution clinchingly points towards the guilt of the accused. In the present case, the learned trial Judge has considered all aspects and acquitted the accused. Hence, this Court is not inclined to interfere with the judgment of acquittal of the trial Court and the appeal fails and is liable to be dismissed.

11. Accordingly, this Criminal Appeal is dismissed confirming the judgment, dated 11.04.2007, in C.C.No.85 of 2006, on the file of the Judicial Magistrate of First Class, Jammalamadugu. Miscellaneous petitions pending, if any, in this Criminal Appeal shall stand closed.

RAJA ELANGO, J

Date: 13th October, 2016

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