

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.666 of 2008

JUDGMENT:

1. This revision case is filed by the petitioner-accused challenging the judgment dated 21.4.2008 passed by the IV Additional District & Sessions Judge (FTC), Mahabubnagar in CrI.A.No.60 of 2004.

2. Brief facts of the case are as follows:

On reliable information, on 18.2.1996, the Circle Inspector of Police, Mahabubnagar along with his staff and mediators went to the house of the accused situated at Old Palamoor, Mahabubnagar and found 12 bottles of Bag Piper Whisky full bottles in a carton; 8 full bottles of B.P. Whisky in another carton; 12 MC Dowel Whisky in another carton; 3 full bottles of same brand in a suit case and 3 full bottles in a gunny bag. On enquiry, A1 revealed that A2 supplied the said liquor and he got them through A3 to sell them on profit. After following necessary formalities, the Circle Inspector of Police arrested A1. A2 and A3 were surrendered before the Court on 22.2.1996. After completion of the investigation, charge sheet was filed before the learned Special Judicial Magistrate of First Class for trial of Cases under Prohibition & Excise Acts, Mahabubnagar. The learned Magistrate took cognizance of the case and numbered it as C.C.No.249 of 1998 for the offence under Section 8(b)(ii) of the A.P. Prohibition Act.

3. During the course of trial, P.Ws.1 to 7 were examined and Exs.P1 to P4 were marked on behalf of the prosecution. No oral or documentary evidence was adduced on behalf of the accused. On appreciation of oral and documentary evidence, the trial Court found the petitioner-A1 guilty for the offence under Section 8(b)(ii) of the A.P. Prohibition Act, convicted and sentenced him to undergo rigorous

imprisonment for a period of one year and to pay a fine of Rs.20,000/- in default to suffer simple imprisonment for a period of six months, while acquitting A2 and A3 for the offence under Section 8(b) of the A.P. Prohibition Act. Aggrieved by the conviction and sentence imposed by the trial Court, the petitioner-A1 filed appeal viz., CrI.A.No.60 of 2004 before the IV Additional District & Sessions Judge (FTC), Mahabubnagar. The said appeal was dismissed by the learned Additional Sessions Judge. Hence, the petitioner filed this revision.

4. Heard and perused the material available on record.

5. Learned Counsel for the petitioner submitted that the Courts below failed to appreciate the evidence in a proper perspective and that there is no independent witness, and without there being any cogent evidence, the Courts below wrongly convicted the petitioner-accused.

6. Perused the entire material available on record. The evidence of P.Ws.1, 3 to 7 coupled with Exs.P1 and 4 establishes the guilt of the petitioner-A1 for the offence under Section 8(b)(ii) of the A.P. Prohibition Act. Nothing was elicited from the cross-examination of the above witnesses to disprove the case of the prosecution. The Courts below have rightly appreciated the evidence. In the facts and circumstances of the case and in view of the concurrent findings of both the Courts below, this Court is not inclined to interfere with the judgment of the lower appellate Court.

7. At this stage, the learned Counsel for the petitioner submitted that the petitioner was in prison for a considerable period and therefore, a lenient view may be taken.

8. Considering the facts and circumstances of the case and the

submissions made by the learned Counsel for the petitioner and taking into consideration that the above crime pertains to the year 1996, this Court is inclined to set aside the sentence of imprisonment.

9. In the result, the conviction recorded by the Courts below against the petitioner-accused for the offence under Section 8(b)(ii) of the A.P. Prohibition Act is confirmed. However, the sentence of imprisonment imposed by the Courts below against the petitioner-accused for the said offence is set aside, while confirming the sentence of fine with default sentence.

10. Accordingly, the Criminal Revision Case is partly allowed. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 27th August, 2016
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THE HONOURABLE SRI JUSTICE RAJA ELANGO

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