

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.1112 of 2008

JUDGMENT:

This criminal appeal is preferred by the appellants/A-1 & A-2 by invoking the provision under Section 374(2) read with Section 382 of the Code of Criminal Procedure being aggrieved by the judgment, dated 01.09.2008, rendered in S.C.No.104 of 2004, by the Special Judge for N.D.P.S. Cases-cum-I Additional Sessions Judge, Warangal, whereby and whereunder the learned Special Judge found the appellants guilty of the offence punishable under Section 8(c) read with Section 20(1)(b) of N.D.P.S. Act, convicted for the same and sentenced them to suffer Rigorous Imprisonment for a period of ten (10) years each and to pay a fine of Rs.1,00,000/- each, in default to suffer further imprisonment for a period of three (3) years each.

2. The case of the prosecution is as follows:

On 03.11.2003, P.W.1, Kishan, sub-Inspector of Police, Parkal, along with Mr. Raji Reddy, Head Constable, Mr. Kishan, Mr. Nageshwar Rao and Mr. Suresh Kumar, Police Constables, P.Ws.2 to 5, were on vehicle checking duty and at about 12.00 noon, they were at Reddy Junior College, Parkal, when they observed the accused carrying a suit case and sky bag (A-1) and a brief case and a hand bag (A-2) and they suspected them, apprehended them and enquired them when they revealed their identity and that they were carrying ganja and as such they secured the presence of Mr. Shyam Kumar and Mr. Raju (P.Ws.2 & 3) to act as panchas, informed them that they could be searched before a Gazetted officer and the accused desired to be searched

before M.R.O. and as such recorded these facts in Ex.A-3 panchanama and he took the accused along with baggages and panchas to M.R.O., Parkal, where their baggages were searched and found to contain the above quantity of ganja which was weighed.

Thereafter, then took three samples weighing 25 grams each from each of the suit case, brief case, sky bag and gunny bag being carried by A-1 and A-2 separately in three polythene covers, sealed them and recorded these facts in Exs.P-1 and P-2 panchanamas respectively for each of the accused. Then they furnished copies of these panchanams to each of the accused under their acknowledgement on the panchanama itself and they returned to the police station, where P.W.1 handed over Exs.P-1 to P-3 panchanamas along with accused and seized and sampled property to P.W.6, who registered the same as a crime, issued Ex.P-4 FIR to learned Magistrate with copies to superior officers, when the Inspector of Police entrusted further investigation to P.W.5, the Sub-Inspector of Police, Shayampet.

P.W.5 took up further investigation, on the same day he visited the police station, collected the case diary file, samples, the accused and balance ganja, examined and recorded the statements of P.w.1, the Head Constable Mr. Raji Reddy, Mr. Kishan, Constable, Mr. Nageshwar Rao and Mr. Suresh Kumar, effected formal arrest of the accused and remanded them for judicial custody, forwarded the samples to Government Chemical examiner and after completion of investigation, he filed final report before the trial Court against the two accused for contravention of the provisions of Section 8 (c) read with Section 20 of the N.D.P.S. Act.

3. The trial Court took cognizance of the offence and after complying with the provisions of Sections 207, 226 and 227 Cr.P.C., found no grounds to discharge the accused and as such proceeded under Section 228 Cr.P.C. and framed a charge for the offence punishable under Section 8(C) read with Section 20 of the N.D.P.S. Act, read over and explained to them, for which, they pleaded not guilty and claimed for trial.

5. During the course of trial, P.Ws.1 to 6 were examined and Exs.P-1 to P-11 were marked on behalf of the prosecution. No oral evidence or documentary evidence was adduced on behalf of the accused.

6. On appreciation of the oral and documentary evidence, the trial Court found the accused guilty of the offence under Section 8(c) read with Section 20 of the N.D.P.S. Act and accordingly convicted and sentenced them as stated above. Aggrieved by the same, the present appeal is preferred by the appellants/A-1 & A-2.

7. Heard and perused the entire material available on record.

8. After evaluating the evidence and after examining the material available on record, this Court is of the view that there are no valid reasons to interfere with the Judgment of the trial Court in convicting the appellants/A-1 & A-2 for the offence under Section 8(c) read with Section 20 of the N.D.P.S. Act.

9. When this Court pointed out that there are no merits in the appeal, learned counsel for the appellants confined his arguments only to the quantum of sentence and prayed this Court to take a lenient view.

10. Considering the facts and circumstances of the case and the time elapsed, this Court is inclined to reduce the sentence of imprisonment for the offence under Section 8(c) read with Section 20 of the N.D.P.S. Act imposed by the trial Court to that of the period, which the appellants have already undergone.

11. In the result, the Criminal Appeal is partly allowed. The conviction recorded by the learned Special Judge for N.D.P.S. Cases-cum-I Additional Sessions Judge, Warangal, vide judgment, dated 01.09.2008, in S.C.No.104 of 2004, against the appellants/A-1 & A-2 for the offence under Section 8(c) read with Section 20 of the N.D.P.S. Act is hereby confirmed. But the sentence of imprisonment imposed by the learned trial Judge for the said offence is reduced to the period already undergone by A-1 & A-2. However, the sentence of fine imposed by the trial Court is reduced to Rs.10,000/- (Rupees ten thousand only) each. Miscellaneous applications, if any, pending in this appeal, shall stand closed.

RAJA ELANGO, J

Date: 27th August, 2016

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