

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL APPEAL Nos.1672, 1674 AND 1695 OF
2007

COMMON JUDGMENT:

These Criminal Appeals, under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), are directed against the judgment, dated 3.12.2007, in Sessions Case No.419 of 2003 on the file of the I Additional Sessions Judge, Warangal, whereunder and whereby, appellants herein/A-1, A-3 and A-4 were found guilty of the offence under Section 8(c) read with 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the N.D.P.S. Act") and accordingly, convicted and sentenced to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.1,00,000/- each and in default, to undergo rigorous imprisonment for 2 ½ years.

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

On 13.10.2003, at 9:30 A.M., the Sub-Inspector of Police, Matwada Police Station (P.W.1) received a telephonic message that ganja was being transported which he entered in the G.D., informed his superior officers about the same and thereafter, himself, Ravi Kumar, Head Constable (P.W.2), Police Constables - Abid Hussain, Venkateswarlu and Ashok Reddy proceeded to Deshaipet road near Urvasi Wine Shop. It was at about 9:15 A.M., he apprehended A-1 to A-4. He enquired them when they informed him that they were possessing ganja. Therefore, he secured the presence of Mohan Rao

- P.W.3 and Vinay - P.W.4 to act as mediators. He also secured the presence of Govinda Rajulu, the M.R.O. In their presence, he seized the bags of A-1 to A-4. Thereafter, first, he got opened the bag of A-1 and took three samples of its contents and recorded these facts in Ex.P-1 panchanama. He then got opened the bag of A-2 and found 5 kgs. dry ganja which also he seized under the cover of Ex.P-2 panchanama. Then, he found A-3 in possession of a plastic bag which contained 4 kgs. dry ganja and he seized the same, took samples and recorded these facts in Ex.P-3 panchanama. Then, he opened the polythene cover in possession of A-4 which was found to contain 4 kgs. dry ganja, which he seized, took samples and recorded these facts in Ex.P-4 panchanama. After returning to the Station, he handed over Exs.P-1 to P-4 panchanamas and 12 sample packets to Sivaprasad - P.W.7, Station House Officer along with Ex.P-5 report.

P.W.7 registered Ex.P-5 as crime and issued Ex.P-12 - F.I.R. to the learned Magistrate. After completion of investigation, charge sheet was filed by the Inspector of Police, Matwada.

3. The learned Sessions Court has taken cognizance of the offence of contravention of Section 8(c) punishable under Section 20 of the N.D.P.S. Act.

4. The learned Sessions Court framed a charge under Section 8(c) read with 20 of the N.D.P.S. Act against all the accused.

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

6. To substantiate the charges, the prosecution examined P.Ws.1 to 7 and got marked Exs.P-1 to P-12. No oral or documentary evidence was adduced on behalf of the accused.

7. The trial Court, after appreciating both oral and documentary evidence on record, found the accused guilty of the charge with which they were charged and accordingly, convicted and sentenced them as stated supra. Challenging the same, the present appeals are filed by A-1, A-3 and A-4 respectively.

8. Heard and perused the material available on record.

9. After arguing for sometime, learned counsel appearing for the appellants in all the cases confined their arguments only to the extent of question of sentence and prayed to reduce the sentence of imprisonment as well as fine imposed by the trial Court.

10. The trial Court, while convicting and sentencing the accused, observed that the offence is punishable with imprisonment of minimum ten years. From a perusal of the record, it is evident that the occurrence took place in the year 2003. In the amended N.D.P.S. Act, which came into existence in the year 2001, as far as the quantity which is lesser than the commercial quantity is concerned, it is stated that the sentence of imprisonment may be extended up to ten years and with fine.

11. Considering the facts and circumstances of the

case and the submission of the learned counsel for the appellants that the appellants have already suffered a substantial period in prison, this Court is inclined to modify the sentence of imprisonment as well as fine.

12. In the result, the conviction imposed against the appellants/A-1, A-3 and A-4 in the judgment, dated 3.12.2007, in Sessions Case No.419 of 2003 on the file of the I Additional Sessions Judge, Warangal for the offence under Section 8(c) read with 20 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 appellants/A-1, A-3 and A-5 have already undergone. The sentence of fine imposed by the trial Court is reduced from Rs.1,00,000/- to Rs.10,000/- and the appellants are directed to pay Rs.10,000/- each on or before 15.11.2016 and in default, to undergo rigorous imprisonment for a period of one year.

13. Accordingly, all the Criminal Appeals are partly allowed.

14. Miscellaneous petitions pending, if any, in these Criminal Appeals shall stand closed.

JUSTICE RAJA ELANGO

9.8.2016
AMD

THE HONOURABLE SRI JUSTICE RAJA ELANGO

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Date: 9.8.2016

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