

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.783 of 2005

JUDGMENT:

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This Criminal Revision Case is preferred by the petitioner – Accused No.2 against Judgment, dated 19.05.2005, passed in CrI.A.No.439 of 2003 by the IV-Additional Metropolitan Sessions Judge, Hyderabad, whereby the learned Sessions Judge partly allowed the appeal by confirming the conviction and reducing the sentence imposed by the II Metropolitan Magistrate, Hyderabad, in CC No.342 of 2001 vide Judgment, dated 18.11.2003 against the petitioner.

The case of the prosecution is as follows:

On credible information that the petitioner, along with another accused, was manufacturing duplicate 'Goa 1000 Guthka' in the house bearing No.19-1-912/A/15/A/1, Muralinagar, Bahadurpura, Hyderabad, the Station House Officer, Task Force, North Zone, Hyderabad, went to the said place and found the accused preparing duplicate of the above said Guthka without any copyright, and seized the material. Thereafter, the police arrested the accused and produced them before the Sub-Inspector of Police, Kamatipura Police Station, along with the seized material, for necessary action. A case in Crime No.29 of 2001 for the offences under Sections 420 IPC, 63 of Copy Right Act and 78 and 79 of the Trade and Merchandise Marks Act was registered against the petitioners. During the course of investigation, the original Goa Guthka samples were taken and forwarded both the samples to the Forensic Science Laboratory through the Court for analysis. The Analyst opined that the outer packing and sachets of item Nos.1 and 2 are differing from each other. After completion of investigation, the police filed charge sheet.

The case was taken on file for the offence under Section 420 IPC against the accused. On appearance of the accused, the charge was read over and explained to them in Hindi, for which they pleaded not guilty and claimed to be tried. After examining three witnesses, on an application filed by the APP, the Court below framed the charges under Sections 63 of Copy Right Act and 78 and 79 of the Trade and Merchandise Marks Act against the accused. The said charges were also read and explained to them in Hindi, for which they pleaded not guilty and claimed to be tried.

During the course of trial, the prosecution examined PWs.1 to 7 and marked Exs.P.1 to P.18 besides MOs.1 to 11. No oral or documentary evidence was adduced on behalf of the accused.

On appreciation of oral and documentary evidence, the trial Court found both the accused guilty of the offences under Sections 63 of the Copy Right Act and 78 and 79 of the Trade and Merchandise Marks Act, and accordingly, convicted and sentenced them to suffer simple imprisonment for six (6) months each and to pay a fine of Rs.5,000/- each, in default, to suffer simple imprisonment for two months each for the offence under Section 63 of the Copy Right Act and the accused were sentenced to suffer simple imprisonment for a period of two (2) years each for the offence under Sections 78 and 79 of the Trade and Merchandise Act. Aggrieved by the same, the accused preferred separate appeals in Crl.A. Nos.439 and 440 of 2003 before the

IV-Additional Metropolitan Sessions Judge, Hyderabad. The learned Sessions Judge, after re-appreciation of the evidence, partly allowed the appeals, confirming the conviction and sentence imposed against both the accused by the trial Court for the offence under Section 63 of the Copy Right Act and reducing the sentence imposed against both the accused for the offence under Section 78 of the Trade and Merchandise Marks Act from simple imprisonment of two years to

simple imprisonment of six months, while maintaining the fine amount and acquitted them for the offence under Section 79 of the Trade and Merchandise Marks Act. Challenging the same, the present revision is preferred by the petitioner – accused No.2.

Heard and perused the entire material available on record.

After evaluating the evidence and after considering the material available on record, this Court of the view that there are no valid reasons to interfere with the concurrent findings of the Courts below in convicting the petitioner – accused No.2 for the offences under Sections 63 of the Copy Right Act and 78 of the Trade and Merchandise Act.

When this Court pointed out that there are no merits in the revision, learned counsel for the petitioner – accused No.2 restricted his arguments to the quantum of sentence, and prayed that as the petitioner has suffered sufficient period in the prison and he is the only bread winner of his family, a lenient view may be taken.

Considering the facts and circumstances of the case and the time elapsed, this Court is inclined to reduce the sentence of imprisonment imposed by the trial Court, as modified by the lower appellate Court on the petitioner – accused No.2 for the above offences, to that of the period, which the petitioner has already undergone.

In the result, the conviction recorded by the II Metropolitan Magistrate, Hyderabad, vide judgment, dated 18.11.2003, in CC No.342 of 2001, as confirmed by the IV Additional Metropolitan Sessions Judge, Hyderabad, vide judgment, dated 19.05.2005, in Crl.A. No.439 of 2003, for the offences under Sections 63 of the Copy Right Act and 78 of the Trade and Merchandise Act is hereby

confirmed. However, the sentences of imprisonment imposed by the trial Court, as modified by the appellate Court, against the petitioner under the above heads, is reduced to that of the period, which the petitioner has already undergone. The fine amount is not interfered with.

Accordingly, the Criminal Revision Case is partly allowed. Consequently, miscellaneous applications, if any pending, shall stand closed.

RAJA ELANGO, J

August 02, 2016.
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