

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.905 of 2016

JUDGMENT:

1. This appeal is filed by the appellant-accused against the Judgment dated 23.1.2015 passed by the Special Sessions Judge for Trial of NDPS Cases (I Additional Sessions Judge, Warangal) in NDPS S.C.No.41 of 2014.

2. The case of the prosecution in brief is as follows:

The accused is a resident of Duppulavada village of Visakhapatnam District and he indulged in procuring and selling of dry ganja. Prior to the date of incident, he purchased 7 kgs of dry ganja @ Rs.200/- per kg at his village. On 13.12.2013 at about 8 a.m., he started from his village and reached Dornakal railway station platform No.2 in order to go to Warangal. On 14.12.2013 at about 11.30 a.m., as per the information, the Sub-Inspector of police, RPS Dornakal, apprehended the accused near the coach along with a bag. When he was questioned, he revealed his name and the contents of the bag as dry ganja. He secured the presence of two mediators and sent a requisition to the Tahsildar. On arrival of the Tahsildar, the accused confessed that he purchased ganja at Duppuluvada village and he was carrying the same for sale at Warangal. Then, the Sub-Inspector of police seized the said bag under cover of mediators' report in the presence of two mediators, he opened the bag and found about four plastic covers properly sealed and one loose packet. He collected three samples from each packet in the presence of two mediators under the cover of mediators' report. Thereafter, he produced the accused along with seized contraband before the Station House Officer of GRP, Dornakal. During the course of investigation, the accused was arrested and the

samples were forwarded to the FSL. As per the FSL report, the samples sent were containing ganja. Thereby, the accused committed the offence punishable under Section 20(b)(ii) r/w 8(c) of the NDPS Act.

3. The trial Court framed a charge under Section 8(c) r/w 20 of the NDPS Act against the accused, read over and explained to him, for which, he pleaded not guilty and claimed to be tried.

4. During the course of trial, P.Ws. 1 to 7 were examined and Exs.P1 to P10 and M.O.1 were marked. No oral or documentary evidence was adduced on behalf of the accused.

5. On appreciation of both oral and documentary evidence, the trial Court found the accused guilty for the offence punishable under Section 8(c) r/w 20(b)(ii)(B) of the NDPS Act, convicted and sentenced him to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.20,000/- in default to suffer simple imprisonment for a period of one month. Aggrieved by the same, the appellant filed this appeal.

6. Learned Counsel for the appellant after arguing for some time, confined his arguments only in connection with the period of sentence of imprisonment imposed by the trial Court. He submitted that the appellant was found in possession of 7 kgs 100 grams of dry ganja and the same is lesser quantity and that the appellant has been in prison from the date of his conviction viz., from 23.1.2015 and therefore, a lenient view may be taken.

7. Learned Additional Public Prosecutor submitted that the judgment of the trial Court does not warrant any interference by this Court.

8. Considering the facts and circumstances of the case and the submissions of the learned Counsel for the appellant, this Court is inclined to modify the sentence of imprisonment.

9. In the result, the conviction recorded by the Special Sessions Judge for Trial of NDPS Cases-cum-I Additional Sessions Judge, Warangal, against the appellant-accused in NDPS S.C.No.41 of 2014, vide judgment dated 23.1.2015 for the offence under Section 8(c) r/w 20(b)(ii)(B) of the NDPS Act is confirmed. However, the period of sentence of three years rigorous imprisonment imposed for the above offence is modified to that of the period, which the appellant-accused has already undergone. The sentence of fine of Rs.20,000/- imposed by the learned Special Sessions Judge for the above offence is also modified to that of Rs.5,000/- (Rupees Five Thousand only), in default, the petitioner shall suffer one month simple imprisonment.

10. With the above modifications, the Criminal Appeal is disposed of. Consequently, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated:19th September, 2016

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19.9.2016

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