

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.1710 of 2005

ORDER:

The present revision case is directed against the conviction recorded against the revision petitioner – accused No.1 for the offence punishable under Section 8 (b) (ii) of A.P. Prohibition Act and the sentence of Rigorous Imprisonment for one year and a fine of Rs.20,000/- with default sentence of Simple Imprisonment for six months inflicted by the learned Judicial Magistrate of First Class at Wanaparthi, by his judgment dated 16.07.2001 in C.C.No.142 of 2000, and affirmed by the learned I-Additional Sessions Judge, Mahabubnagar, in CrI.A.No.99 of 2001, dated 15.09.2005.

In the present revision case, the main ground agitated is that the revision petitioner was convicted without any basis solely on presumptions and assumptions. The other grounds raised are that there are material discrepancies and material omissions in the prosecution evidence and the judgments were rendered by recording findings contrary to the probabilities and weight of evidence. Except these grounds, no specific grounds have been mentioned in the grounds of appeal. Therefore, the grounds agitated have to be construed as general in nature without there being any substance to point out which of the findings have been tainted with illegality.

While admitting the present revision on 07.10.2005, the sentence of imprisonment imposed on the revision petitioner was suspended. Thereafter, for more than half a dozen times when the matter was called,

there was no representation for the revision petitioner. Moreover, the present revision relates to the year 2005. Therefore, the present revision case is taken up for disposal.

Before the learned Magistrate, the prosecution examined PWs.1 to 4 and marked Exs.P1 to P8. On behalf of the defence, the revision petitioner examined himself as DW.1 and got marked Ex.D1. The findings recorded by the trial Court would show that the property was seized from the house of the revision petitioner in the presence of mediators, pursuant to a search memo, and samples marked as M.Os.1 and 2 were collected and even chemical analyst report was also obtained, which, thus, proves the prosecution case. No doubt, the revision petitioner has taken a plea that seizure was not effected from his residence, which is against the evidence on record. PW.1, who is one of the mediators, wavered in his evidence, but, by that itself, it cannot be said that the contraband was not seized from the house of the revision petitioner in the presence of evidence of PWs.1 and 4. Thus, when looked at the findings recorded by the trial Court, certainly, no legal infirmity is to be found.

The appellate Court, having dealt with the evidence independently, appreciated the evidence and found that the revision petitioner is the owner of the house from where contraband was seized, as could be seen from the ration card and, therefore, disbelieved the stand taken by the revision petitioner and affirmed the conviction and sentence of imprisonment inflicted on him including the fine.

Since the fine amount was paid by the revision petitioner, the sentence was suspended by the lower appellate court and when he approached this court in the present revision, the sentence of imprisonment was suspended pending disposal of the revision. When concurrent findings are staring at the revision petitioner, unless the revision petitioner comes out in the grounds of the revision case at least that there is material to show that the findings recorded are patently illegal or perverse, he cannot succeed in getting over the conviction recorded as well as the sentence of imprisonment inflicted on him. There is no merit in the present revision.

Hence, the present criminal revision case is dismissed confirming the conviction recorded against the revision petitioner for the offence punishable under Section 8 (b) (ii) of A.P. Prohibition Act and the sentence of Rigorous Imprisonment of one year as well as fine of Rs.20,000/- imposed on him. The revision petitioner is directed to surrender before the Judicial Magistrate of First Class, Wanaparthy, by 14.12.2017. In case he fails to surrender, the learned Magistrate is directed to secure his presence and put him in prison to serve out the sentence of imprisonment inflicted on him.

As a sequel thereto, miscellaneous petitions, if any pending in the present revision, stand closed.

JUSTICE SHANKAR NARAYANA

23.11.2017

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