

HONOURABLE SRI JUSTICE N. BALAYOGI

CRIMINAL PETITION No.8285 of 2011

ORDER:

1. This Criminal Petition is filed by the petitioner-accused No.3 under Section 482 Cr.P.C. seeking to quash the proceedings against him in C.C.No.273 of 2011 on the file of the Judicial First Class Magistrate, Adoni, Kurnool District.

2. It is the contention of the petitioner-accused No.3 that the police, Adoni I Town Police Station arrested A1 and A2 in the above C.C. on 22.4.2010, and A1 and A2 confessed that they purchased hemp leaves from A3 and A4 as they were giving Matka beat to them on commission basis, and accordingly, the petitioner was arrayed as accused No.3 and that the confession of co-accused is inadmissible and that the mandatory provision under Section 50 of the NDPS Act has not been complied with.

3. The facts of the case are that on 22.4.2010 at about 9 a.m., the police arrested A1 and A2 in front of Chowdari Bavi, Niaamudding Circle Adoni Town and seized 400 grams of hemp leaves, matka chits and an amount of Rs.300/- from their possession while they were selling hemp leaves. A1 and A2 confessed that they purchased the hemp leaves from A3 and A4 as they were giving matka beat to them on commission basis.

4. Basing on the police report, a case in Crime No.86 of 2010 was registered for the offence under Section 20 of the NDPS Act and Section 9(1) of the A.P. Gaming Act. A charge sheet was filed against four persons and the petitioner was arrayed as accused No.3 therein.

5. The learned Public Prosecutor contended that the petitioner-accused No.3 was arrested on the basis of confession made by A1 and A2 that the petitioner-accused No.3 was selling hemp leaves.

6. A perusal of the entire record goes to suggest that A1 and A2 in the above C.C.No.273 of 2011 were arrested on 22.4.2010, and an amount of Rs.300/- and 400 grams of hemp leaves and matka chits were seized from the possession of A1 and A2. Basing on the confession made by A1 and A2 that they purchased the hemp leaves from the petitioner and another, the petitioner was arrayed as accused No.3.

7. In all, the prosecution examined three witnesses. The first witness S.V. Ramanaiah, P.C.2925 Adoni I Town Police Station and 3rd witness- P.S.V. Rama Kishore spoke about verification of the investigation done by L.W.2-S.D. Peeran Basha, H.C.1378 Adoni I Town Police Station. L.W.3 spoke about filing of the charge sheet also.

8. Admittedly, no information connecting the petitioner-Accused No.3 with the offence was collected nor any hemp leaves were recovered from the petitioner-accused No.3. Except the allegation made by A1 and A2 in their confession that the petitioner was selling hemp leaves and they purchased the same from the petitioner, nothing is placed before the Court to connect the petitioner-accused No.3 with the crime. The confession of co-accused is inadmissible and it cannot be used as evidence against the petitioner. It is well settled law that mere confession is not a ground to proceed against a person, and such confession is inadmissible. Therefore, the proceedings against the petitioner-accused No.3 in the above C.C. are liable to be quashed.

9. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioner-accused No.3 in C.C.No.273 of 2011 on the file of the Judicial First Class Magistrate, Adoni, are hereby quashed. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE N. BALAYOGI

Date: 6th October, 2017
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