

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CRIMINAL PETITION NO.8188 OF 2011

ORDER:

This Criminal Petition is filed under Section 482 of the Criminal Procedure Code to quash the proceedings in C.C.No.189 of 2010 on the file of Judicial First Class Magistrate at Kollapur.

Petitioner is A2 in PCR.No.399/2007-08 registered for the offence under Section 37 (A) of the A.P.Excise Act, 1968 (for brevity, 'the Act'). On 29.10.2007 the Excise officials of Kollapur Station, on reliable information, went to the toddy shop and found one Mr.Suragouni Kistaiah Goud-A1 selling toddy and when the officials enquired him he failed to produce the licence or Nowkarnama, stating that he is selling the toddy on behalf of two TFT licensees namely Swamy Goud-A2 and M.Raman Goud-A3. The Excise officials collected the samples stating that they have information that the toddy is adulterated with Chloral Hydrate and, accordingly, tested the same and found that the toddy is adulterated with Chloral Hydrate. The officials seized the contraband under cover of panchanama and arrested A1. A case has been registered under Section 37(A) of the Act, investigation has been completed and charge sheet has been filed in PCR.No.399/2007-08, dated 29.10.2007, by the Prohibition & Excise Sub-Inspector, Kollapur.

A perusal of the panchanama discloses that there is no evidence collected by the Inspecting officials to show that they have inspected the licencees' toddy shop and that A1 is authorized by A2 and A3 to sell toddy and that he is holding a Nowkarnama.

Admittedly, the Investigating officials have not collected the licences, Nowkarnama or authorization from A1 and the panchanama does not disclose about the details and boundaries of the place of inspection. The charge sheet does not disclose about the efforts made by the officers and the reasons for not recording the details of the toddy shop, its boundaries and also the reason for not procuring the Nowkarnama of A1 and also the licences. The officers failed to produce the copies of the licence to link the circumstantial evidence. A mere confessional statement of a co-accused has no relevance under the Indian Evidence Act, 1872 to prosecute A2-the petitioner herein. Admittedly, petitioner herein was not present at the scene of offence and the contraband was not seized from him. The extra judicial confession cannot bind A2 in the above criminal case.

For the reasons stated above, this Criminal Petition is allowed, setting aside C.C.No.189 of 2010 on the file of the Judicial First Class Magistrate at Kollapur insofar as A2 is concerned. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

27th October, 2017

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