

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL REVISION CASE NO.386 OF 2006

ORDER:

This revision is filed by the petitioner-A1 under Sections 397 and 401 Cr.P.C. challenging the judgment, dated 27.02.2006 in CrI.A.No.278 of 2005 on the file of the X Addl. District and Sessions Judge (Fast Track Court), Guntur at Narsaraopet, in confirming the conviction of A1 for the offence punishable under Section 34 (a) of A.P. Excise Act and sentencing him to undergo simple imprisonment for one year and to pay a fine of Rs.5,000/-, in default to suffer simple imprisonment for three months, recorded by the I Addl. Judl. Magistrate of I Class, Gurazala, vide judgment, dated 19.07.2005 in C.C.No.29 of 2002.

2. Heard learned counsel for the petitioner-A1, learned Assistant Public Prosecutor representing the respondent-State and perused the record.

3. Learned counsel for the petitioner-A1 would submit that both the Courts below convicted and sentenced the petitioner for the offence punishable under Section 34 (a) of A.P. Excise Act. P.Ws.1 to 3 are highly interested witnesses and there are no other eye witnesses. There is no legally acceptable evidence to connect the petitioner with the alleged offence and ultimately, prayed to set aside the conviction and sentence recorded against the petitioner.

4. On the other hand, learned Assistant Public Prosecutor would submit that there is ample evidence to substantiate the accusation against the petitioner for the offence punishable under Section 34 (a) of A.P. Excise Act. P.Ws. 1 to 3 have categorically stated about the commission

of offence. There is no mis-carriage of justice and ultimately, prayed to dismiss the revision.

5. In view of submissions made by both sides, the point for determination is whether the conviction and sentence recorded against the petitioner-A1 is liable to be set aside?

6. P.Ws. 1 to 3 have clearly and categorically stated about the sale of liquor by the petitioner-A1 and seizure of the same under Ex.P1-special report. There is also evidence of drawing sample and sending the same to the Expert for opinion and obtaining the report. There was no licence in favour of the petitioner to sell the liquor. There is evidence on record to show that 48 liquor bottles in one carton and 18 liquor bottles in other carton, total 66 liquor bottles were seized. Admittedly, there was no licence for the petitioner to sell the same. A2 also had no licence to get the liquor sold through A1. There is cogent and convincing evidence with regard to seizure of liquor. There are also documents i.e., Exs.P3 to P5. As per Ex.P6, the expert opined that one bottle consists of strong beer. The evidence on record clinchingly establishes sale of liquor without licence by the petitioner, which is punishable under Section 34 (a) of A.P. Excise Act. Both the Courts below acted upon on admissible evidence and reached conclusions. It cannot be held that there is mis-carriage of justice. There is no infirmity in the judgments of the Courts below so as to take a different view than the one taken by the Courts below.

7. It is brought to the notice of this Court that the petitioner-A1 has already paid the fine amount. The petitioner-A1 is aged about 22 years. In view of young age of the petitioner, while confirming the conviction recorded

against the petitioner-A1 by the both Courts below, sentence of imprisonment is reduced from one year simple imprisonment to six (6) months simple imprisonment. The period of remand undergone by the petitioner-A1 during the course of investigation, trial and after conviction, shall be given set off under Section 428 Cr.P.C.

8. With the above modification of sentence, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any pending in this Revision shall stand closed.

DR.SHAMEEM AKTHER, J

DATED: 09-04-2018.
Hsd

