

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.11813 of 2018

ORDER:

The petitioner is A.3 in CC.No.416 of 2014 on the file of II Additional Judicial First Class Magistrate at Kothagudem, Khammam District, taken cognizance for the offences punishable under Section 34(e) of AP Excise Act along with A.1 and A.2.

The accusation against the petitioner is that he was selling black jaggery and alum to A.1 and A.2 who are admittedly doing business in black jaggery and what all added in so called disclosure statement while in police custody by A.1 and A.2 is that they purchased the same from A.3 and A.3 knows that what they are purchasing for their in turn sale to the persons who are manufacturing illicit liquor, but for that stray sentence there is no other material against the petitioner. Leave about the fact that black jaggery and alum seized from accused Nos.1 & 2 from their exclusive custody nothing more is admissible as a fact discovered under Section 27 of the Evidence Act and once there is other portion hit by Section 25 of the Evidence Act as observed in **Mohmed Inayatullah Vs. The State of Maharashtra**¹ thereby even admissibility of any so called portion of the statement as that of co-accused under Section 30 r/w Section 27 of the Evidence Act against the petitioner of such a stray

¹ AIR 1976 SC 483

sentence is a bleak, leave about same is not even a substantial evidence against co-accused, but a peace of evidence ultimately there will be no any chance of even framed charge to find the accused guilty even remotely from the entire prosecution case is taken as gospel truth and the continuation of the proceedings against the petitioner is futile for ultimately with no purpose.

Having regard to the above and in the result, this Criminal Petition is allowed to sub serve the ends of justice and the proceedings against the petitioner-A.3 are hereby quashed, accused is acquitted and the bail bonds of the accused, if any, shall stand cancelled.

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 26.11.2018
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