NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 216 of 2005

Order reserved on 11.02.2019

Order pronounced on 04.12.2019

Sonu Ram S/o. Kendwa Ram, aged about 22 years, R/o Bhathupara, Ambikapur, District Sarguja, CG.

---- Applicant

Versus

State of Chhattisgarh, through District Magistrate Ambikapur District Saruguja, CG.

---- Respondent

For Applicant : Shri Anil Gulati, Advocate

For State/ Respondent : Shri Aman Kesharwani, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V Order

By this revision petition the applicant has assailed the judgment dated 09.05.2005 passed by Additional Sessions Judge, (FTC) Ambikapur, Sarguja, in Criminal Appeal No. 151/04 affirming the judgment dated 18.10.2004 passed by Chief Judicial Magistrate, Ambikapur District Sarguja in Criminal Case No. 954/04 convicting the accused/applicant under Section 34 (1) (a) of the Excise Act and sentencing him to undergo RI for one year and pay fine of Rs. 25,000/-, in default of payment of fine to undergo further RI for six months.

2. Facts of the case, in short, are that on 17.06.2004, when the applicant accompanied by one Guddun were going towards Pratappur Naka on a Bajaj Scooter bearing registration No. MP-27-C/2597, the Sub Inspector on duty grew suspicion and on inspection being made, 14 plastic pouches, each containing two liters of some

liquid substance were kept in the dickey of the said scooter. The seizure of the liquor measuring 28 liters was made under Ex. P-1 in the presence of the witnesses (PW-1 and PW-2). On being examined by the Excise Inspector (PW-3), the substance so seized was found to be country made liquor. After completion of investigation charge-sheet was filed against the accused/applicant under Section 34 (1) (a) of the Excise Act.

3. After examining the material available on record and the evidence of the witnesses the trial Court convicted the accused/applicant under Section 34 (1) (a) of the Excise Act. The findings recorded by the trial Court have subsequently been confirmed by the lower Appellate Court by the judgment impugned and it is that which is under challenge in this revision.

4. Counsel for the accused/applicant submits that both the Courts below have fallen into a serious error in convicting the accused/applicant under Section 34 (1) (a) of the Excise Act and that the findings so recorded are contrary to the evidence led by the prosecution. He further submits that as the prosecution could not prove its case beyond reasonable doubt, the judgment impugned is liable to be set aside.

5. On the other hand, counsel for the respondent/State supports the judgment impugned and submits that the findings recorded by both the Court below convicting the accused/applicant as shown above, are strictly in accordance with law and there is no infirmity in the same.

6. Heard counsel for the parties and perused the evidence on record.

7. After considering the material on record including the evidence of PW-1 and PW-2, this Court is of the considered opinion that the accused/applicant was found in possession of 28 liters of illicit country made liquor without any authorization letter or licence to possess the same. The seizure witnesses have also duly supported the case of the prosecution stating that the liquor was seized from the accused/applicant under Ex. P-1 which bears their signature also. The quantity of liquor seized from the accused/applicant to be 28 liters is not in dispute. Both the Courts below therefore, have rightly held the accused/applicant guilty u/s 34 (1) (a) Excise Act and imposed the sentence on him as mentioned above. No illegality is there in the judgment impugned warranting any interference in this revision.

8. Revision thus being without any substance is hereby dismissed.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Pawan