

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL APPEAL No.531 OF 2016

JUDGMENT:

This appeal, under Section 374 (2) of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C'), is filed by the appellants/Accused Nos.1 and 2 aggrieved by the judgment, dated 26.02.2016, rendered in N.D.P.S Sessions Case No.30 of 2015 on the file of Special Sessions Judge for Trial of NDPS Cases (I-Additional Sessions Judge), Warangal, whereunder and whereby, the learned Special Sessions Judge found the appellants/Accused Nos.1 and 2 guilty of the offence punishable under Section 8 (c) read with 20 (b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS Act') and accordingly, they were convicted and sentenced to undergo rigorous imprisonment for a period of three years and to pay fine of Rs.10,000/-each, in default to suffer simple imprisonment for a period of one month each.

2. Heard the learned counsel for the appellants/Accused Nos.1 and 2 and the Additional Public Prosecutor appearing for the respondent-State. Perused the record.

3. Learned counsel for the appellants/Accused Nos.1 and 2 would contend that no Ganja was seized from the possession of the appellants/Accused Nos.1 and 2 by the police concerned; that the prosecution failed to prove the guilt of the appellants/Accused Nos.1 and 2 beyond all reasonable doubt; that the circumstances projected by the prosecution are not

helpful to prove the guilty of the appellants/Accused Nos.1 and 2; that learned Special Sessions Judge did not appreciate the whole evidence in right perspective and erroneously convicted the appellants/Accused Nos.1 and 2 for the aforesaid offence and ultimately, prayed to set aside the conviction and sentence recorded against the appellants/Accused Nos.1 and 2 for the aforesaid offence by the impugned judgment.

4. Learned Additional public Prosecutor appearing for the respondent-State would submit that there are material witnesses, who supported the prosecution case; that Ex.P.1-panchanama, Ex.P.2-photographs, Ex.P.11-F.S.L report and the particulars made in Ex.P.12-GD entry, clinchingly establish the guilt of the appellants/Accused Nos.1 and 2 for the offence punishable under Section 8 (c) read with 20 (b)(ii)(B) of the NDPS Act; that the learned Special Sessions Judge rightly convicted and sentenced the appellants/Accused Nos.1 and 2 for the aforesaid offence and ultimately, prayed to sustain the impugned judgment and dismiss the appeal.

5. In view of the submissions made by both sides, the following points have come up for determination:

“(1) Whether the dry Ganja, weighing 6 kgs., was seized from the possession of appellants/ A.1 and A.2?

(2) Whether the prosecution proved the guilt of the appellants/Accused Nos.1 and 2 for the offence punishable

under Section 8 (c) read with 20 (b) (ii) (B) of the NDPS Act beyond all reasonable doubt?”

6. To prove the guilty of the appellants/Accused Nos.1 and 2, the prosecution examined P.Ws.1 to 7 and got marked Ex.P.1-panchanama, Ex.P.2-photographs, Ex.P.3-complaint presented by P.W.1, Ex.P.4-161 Cr.P.C. statement of P.W.3, Ex.P.5-F.I.R, Ex.P.6-crime details form, Ex.P.7-letter of advice, Ex.P.8-requisition filed for destruction, Ex.P.9-destruction certificate, Ex.P.10-photographs showing destruction, Ex.P.11-F.S.L report and Ex.P.12-GD entry besides M.O.1-one sample.

7. There is cogent and convincing evidence of prosecution witnesses to substantiate seizure of 6 kgs., of dry Ganja on 10.07.2014 from the possession of the appellants/Accused Nos.1 and 2 at about 12:45 PM. Though the Ganja was kept in plastic cover, the same was seized under the cover of panchanama. There is also evidence of collection of samples of Ganja and sending one sample to F.S.L. The report under Ex.P.11 discloses that the contraband seized is a dry Ganja. There is no reason to discard the prosecution evidence. Under these circumstances, there is unimpeachable evidence to prove that the appellants/Accused Nos.1 and 2 are guilty of the offence punishable under Section 8 (c) read with 20 (b)(ii)(B) of the NDPS Act, beyond all reasonable doubt and the learned Special Sessions Judge rightly convicted and sentenced the appellants/Accused Nos.1 and 2 to suffer rigorous imprisonment for a period of three years and directed to pay fine of

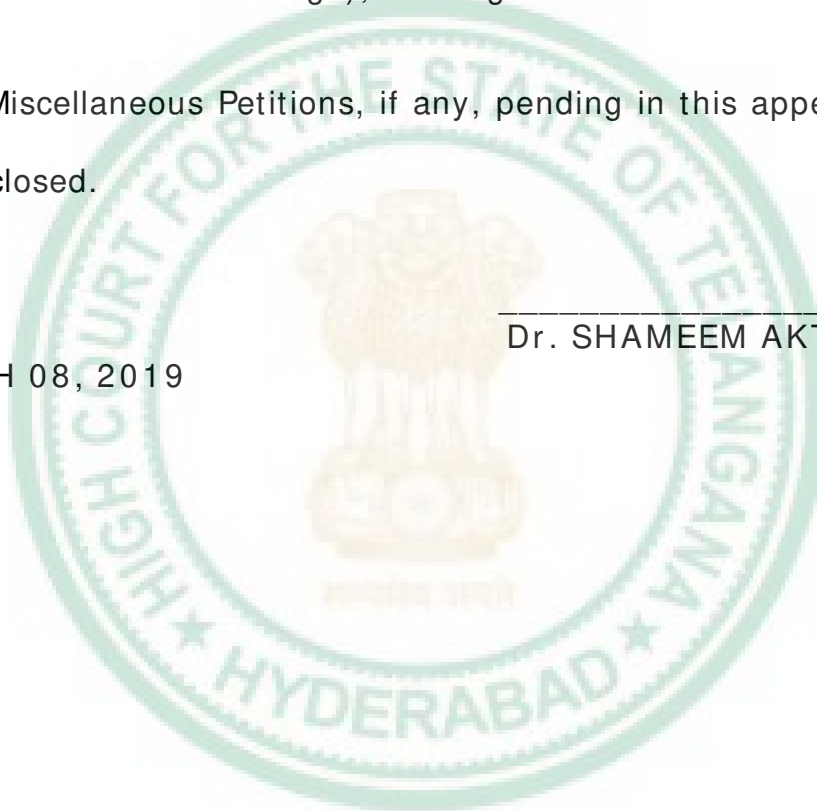
Rs.10,000/-. There is no infirmity in the impugned judgment and the same is liable to be confirmed.

8. Accordingly, the Criminal Appeal is dismissed confirming the conviction and sentence imposed against the appellants/Accused Nos.1 and 2 vide judgment, dated 26.02.2016, rendered in N.D.P.S Sessions Case No.30 of 2015 on the file of Special Sessions Judge for Trial of NDPS Cases (I-Additional Sessions Judge), Warangal.

Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

MARCH 08, 2019
YVL

Dr. SHAMEEM AKTHER, J



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Date:08.03.2019

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