

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL APPEAL No.884 of 2017

Judgment:

1. The State has filed the present appeal against the acquittal of the respondent/accused of the offences under Sections 27(b)(i) and 28(A) of the Drugs and Cosmetics Act, 1940 (for short 'the Act'), by the I Additional Sessions Judge at Mahabubnagar (for short 'the trial court'), *vide* Judgment dated 16-09-2016, in Spl.C.C.No.13 of 2014.

2. Briefly, the facts of the case are that on information from PWs.1 to 3 that the respondent/accused was selling drugs labeled as 'Physician samples not to be sold' to the customers illegally before a clinic situated on the main road of Bijinepally village, PW.7- Tahsildar deputed PW.6- Additional Revenue Inspector. Accordingly, on 02-02-2010, around 12:45 hours, P.W.6 inspected the said place in the presence of PWs.4 and 5- mediators and found the respondent/accused selling MOs.1 and 2- drugs. PW.6 seized the same under the cover of Ex.P.6- panchanama and handed over them along with Ex.P.6 to PW.7, who, in turn, addressed Ex.P.7- letter to PW.8- Drugs Inspector and forwarded MOs.1 and 2 for taking further action. On

03.02.2010, PW.8 addressed Ex.P.8- letter to the Judicial Magistrate of First Class, Nagarkurnool, seeking orders for safe custody of MOs.1 and 2 by producing the same before that Court. PW.8 issued notice under Section 18(A) of the Act to the respondent/accused to give the name and address of the person from whom he acquired MOs.1 and 2, but the respondent/accused failed to furnish the same. After completion of investigation, PW.8 filed complaint before the learned Judicial Magistrate of First Class, Nagarkurnool, who, on finding that the above offences are triable by the Special Court, directed the complainant to file the complaint before the Special Court. Accordingly, on filing the complaint, the trial court took cognizance of the offences and summoned the respondent/accused.

3. After hearing learned Additional Public Prosecutor and learned counsel for the respondent/accused, charges were framed against the respondent/accused. The accused pleaded not guilty and claimed to be tried. In order to support its case, the prosecution examined eight witnesses, submitted eight documents, and produced two articles. On the other hand, the defence neither examined any witness, nor relied on any documentary evidence. After appreciating

the evidence, by the Judgment under appeal, the trial court acquitted the respondent/accused. Hence, the present appeal by the State before this Court.

4. The learned Public Prosecutor has strenuously pleaded that PW.1-Drugs Inspector has no grudge against the respondent/accused to file the complaint against him and his evidence is supported by PW.6, who clearly stated that on the instructions of PW.7, who is his superior officer, he had inspected the premises and in the presence of Mediators-PWs.4 and 5, he had conducted panchanama and seized MOs.1 and 2- drugs. Therefore, he submits that the learned trial Court has not considered the evidence of prosecution witnesses in its correct perspective and erred in acquitting the respondent/accused.

5. On the other hand, Mr. G.Sravan Kumar, learned counsel for the respondent/accused, contends that the scope of interference with an acquittal order by the appellate court is extremely limited and that the trial Court has taken a reasonable view of the evidence produced by the prosecution, and rightly acquitted the accused. Therefore, the learned counsel for the respondent/accused has supported the acquittal order.

6. Heard learned counsel for the parties, and perused the impugned judgment.

7. A bare perusal of the impugned judgment reveals that the learned trial court has clearly noticed that though PW.7 stated that he received a complaint from PWs.1 to 3 and about 20 other villagers in Bijinepally on 02.02.2010, PWs.1 to 3 deposed that they do not know the respondent/accused and that they never made any complaint against him to PW.7 at any point of time. As regards Exs.P.1 to P.3- signatures, PWs.1 to 3 deposed that the same were obtained from them on some papers by some persons in the month of January or February, 2010, and that they did not know the contents thereof.

8. The trial court disbelieved the evidence of PW.6 and Ex.P.6-Panchanama on the ground that PWs.4 and 5- mediators made a strong denial of possessing any knowledge about the contents of Ex.P.6 and moreover, they stated that their signatures were obtained on a report by somebody while they were attending a meeting in the office of the MRO in Bijinepally.

9. The trial court also observed that PW.7 was unable to either assert his authority under the Act to assume the role of

a drug inspector in the absence of any written authority/authorization given to him by the latter, or quote the provision of law under which he authorized PW.6 to seize the drugs from the respondent/accused.

10. On perusal of the testimony of PW.8, the trial court observed that PW.8 never deposed that he asked PW.7 to proceed on the complaint received from the public against the respondent/accused as he was engaged in some court work as deposed by PW.7 and that Ex.P.7 was handed over to him by PW.7 along with MOs.1 and 2. The trial court also noted the fact that MOs.1 and 2 were not sent for analysis to any laboratory and PW.8 himself admitted in his evidence that he did not take any steps therefor. The trial court observed that PW.8 also pleaded his ignorance about any authority of PW.7 to seize MOs.1 and 2. Accordingly, the trial court held that the very seizure of MOs.1 and 2 from the possession of the respondent/accused is not proved beyond reasonable doubt by the prosecution in view of lack of corroboration from the evidence of PWs.4 and 5-mediators. Ultimately, the trial court held that the prosecution has miserably failed in bringing home the guilt

of the respondent/accused for the offences arraigned against him.

11. It is, indeed, a settled principle of law that interference with an acquittal order falls within a very limited scope. If a reasonable view has been taken by the learned trial Court, the appellate court ordinarily should not interfere with the acquittal order. Having gone through the impugned judgment, this court is of the opinion that the trial court was certainly justified in acquitting the respondent/accused.

12. Therefore, this Criminal Appeal dismissed.

(G. SRI DEVI, J)

Dt: 12th August, 2021
rrb/lur