

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.148 of 2007

JUDGMENT:

This Criminal Appeal is preferred by the State against the Judgment dated 21.01.2004 passed in C.C.No.246 of 2002 by the Additional Munsif Magistrate, Srikalahasti, whereby the learned Judge acquitted the accused for the offence under Section 7(A) read with 8(e) of the A.P.Prohibition Act.

The case of the prosecution, as recorded by the trial Court, is as follows:

The accused A.1 to A.6 are residents of Nimmarallapalli village. On 15.05.1999 at about 5.30 p.m., on information P.W.4 Prohibition and Excise Inspector, Srikalahasti, along with P.W.2 C.Venkatarathnam, P.W.1, C.Subbaiah, L.W.3 K.C.Vijayakumar, Prohibition and Excise Constable, Srikalahasti, L.W.4 S.Lakshmaiah, Prohibition and Excise Constable, Srikalahasti and P.W.3 V.V.Ramana, Prohibition and Excise Sub Inspector, Srikalahasti conducted raids found A.1 to A.6 mixing something with their hands near thorny bushes near Chakaligunta at a distance of 1 KM west to Nimmarallapalli Village. On seeing the excise police, they ran away. But excise police detained only A.1 and others ran away. On enquiry, A.1 revealed his address as well as A.2 to A.6. Then the Prohibition and Excise Inspector, Srikalahasti, verified the place and found 60 mud pots each with 15 litres of F.J.wash fit for distillation and has drawn 750 ml bottle six of wash as sample for chemical purpose, sealed labelled and affixed identification. After informing the grounds of arrest, arrested A.1 under cover of panchanama and registered the case and set A.1 under cover on 23.05.1999 at about 1.00 p.m., arrested A.5 and A.6 at Nimmarallapalli village and sent them for remand. The Chemical Examiner opined that the sample is fermented wash fit for distillation. Hence, the charge sheet.

This Court perused the records and heard the arguments.

To substantiate the case of the prosecution, P.Ws.1 to 4 were examined and Exs.P.1 to P.3 were marked.

The trial Court acquitted the accused as the Prosecution failed to prove its case beyond all reasonable doubt. P.Ws.1 and 2, who acted as mediators, turned hostile. Further, there is a contradiction in the evidence of P.W.3 and P.W.4, regarding the scene of offence. The Court below further held that the prosecution failed to establish the case of possession of contraband by the accused and that believing the evidence of P.Ws.3 and 4, who are police officials, the petitioners cannot be convicted especially when the mediators, P.Ws.1 and 2, who are allegedly prepared Panchanama, turned hostile. Hence, the Court below acquitted the petitioners for the offence under Section 7(A) read with 8(e) of the A.P.Prohibition Act.

Hence, this Court is of the view that the Judgment of the trial Court is in accordance with law and it does not suffer from any perverse findings and the acquittal recorded by the trial Court needs no interference by this Court.

The Criminal Appeal is accordingly dismissed. Miscellaneous applications, if any pending in this appeal, shall stand dismissed.

JUSTICE RAJA ELANGO

25.07.2016
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