

IN THE COURT OF THE PRINCIPAL JUNIOR CIVIL JUDGE CUM
JUDICIAL MAGISTRATE OF FIRST CLASS, PARVATIPURAM

Present : Smt J. SOWMYA JOSPHINE,
Additional Judicial Magistrate of First Class, Parvathipuram.
FAC Principal Junior Civil Judge cum
Judicial Magistrate of First Class, Parvatipuram.

Wednesday, the 15th day of May, 2024

CALENDAR CASE No.910/2023

Between:

State represented by the Sub Inspector of Police,
Parvatipuram Town Police station.

..... Complainant.

And:

A.1. Sondi Latchu, S/o.late Venkati, 29 years, Peda Relli Veedhi,
25th ward, Parvatipuram Town.(Died)

A.2: Sondi Krishna, S/o.late Polayya, 38 years, Patha relli veedhi,
Parvatipuram Town.

..... Accused.

This case coming on 7.5.2024 for final hearing before me in the presence of Learned Assistant Public Prosecutor for the Complainant/State and Sri N.Srinivasa Rao, Learned Counsel for the Accused and the matter having stood over for determination till this day, this Court delivered the following :-

JUDGMENT

01. The State represented by the Sub Inspector of police, Parvatipuram Town Police station filed Charge Sheet against the Accused in Crime No.101/2022 for the offence punishable under Section 7A r/w 8(e) of AP Prohibition Act.

02. The brief facts of the case are as follows:

On 24.4.2022 at about 12.00 hours, K.Prayogamurthy, the Sub-Inspector of Police, Parvatipuram Town Police station/L.W.3 along with V.V.S.R.Sarma, Asst.Sub-Inspector of Police/L.W.1 and V.Vijay Kumar, Police constable/L.W.2 while conducting vehicle checking at Jagannadhapuram junction, they found one person coming from Kistapalli village to Ramapuram colony on his bike by hanging black plastic cans on both sides of the bike and on seeing the police in uniform he immediately turned his bike and tried to escape from there. They caught him and enquired him. He disclosed that one Sondi Krishna of Parvatipuram Town has offered him Rs.2,000/- if he bring ID arrack from Vepavalasa village in Odissa state

to Parvatipuram and provided a bike to him for transporting the same. Accordingly, while he was bringing the ID arrack he was caught by the police. On verification, they found 20 liters of ID arrack in six cans. On that the Sub-Inspector of Police informed them that possession of ID arrack is an offence and seized six black plastic tins containing 120 liters of ID arrack along with motor cycle bearing No.AP 31 AJ 1598 under the cover of occurrence report. He brought the accused and seized property to the police station, registered the occurrence report as case in Cr.No.101/2022 of Komarada Police station and produced the accused before the Court for judicial remand. S.K.Fakruddin, the Sub-Inspector of Police/L.W.4 sent samples of the seized property to chemical analysis and received report. After completion of investigation, he filed charge sheet before the Court.

03. The Court took cognizance of the offence punishable under Section 7A r/w 8(e) of AP Prohibition Act against the Accused. On 22.12.2023, the Prosecution filed Death certificate of Accused No.1 along with a memo. The same was recorded. Hence the case against Accused No.1 is abated. On appearance of the Accused No.2 before the Court, Copies of documents were furnished to him, as required under Section 207 of Cr.P.C.

04. Accused was examined under Section 239 of Cr.P.C by explaining the particulars of offence for which he denied the offence. Charge under section 7A r/w 8(e) of A.P.Prohibition Act was framed against the accused, read over and explained to him in Telugu for which he pleaded not guilty and claimed to be tried.

05. To prove the guilt of the Accused, the Prosecution has examined PW1 to PW3 and Exs.P1 to P3 and M.O.1 were got marked through them. After closure of the Prosecution evidence, the Accused was examined under Section 313 of Cr.P.C., by explaining the incriminating evidence appearing against him. He denied it totally and reported no Defence evidence.

06. Heard the Learned Assistant Public Prosecutor and the Learned Counsel for the Accused.

07. Now the point for determination is whether the Prosecution has proved the guilt of the Accused No.2 for the offence under section 7A r/w 8(e) of AP Prohibition Act beyond all reasonable doubt?

POINT:

08. On scrutinizing the entire evidence of prosecution, PW2 who is the Sub Inspector deposed in his evidence that on date of incident along with his staff proceeded to the scene of offence and found the accused were in possession of six cans tying on both sides of their motor cycle. He further deposed that on noticing them, accused tried to escape from them but they caught hold the accused. Later PW2 verified the said six cans and found 120 liters of ID arrack ie., 20 liters of ID arrack in each can. On that he seized the property and drawn sample for the purpose of chemical analysis. He further deposed that he had drawn sample from the contraband under the cover of Report Ex.P2, Basing on the same, he registered a case in Cr.No.101/2022 for the offence punishable under section 7A r/w 8(e) of APP Act. P.W.3 deposed in his evidence that A.2 voluntarily surrendered before him and on that he produced him before the court. He obtained Analysis report and filed charge sheet.

09. Much was argued by both sides. Scrutinizing the evidence of prosecution PW2- the Sub Inspector Police and his evidence is supported by the evidence of PW1. Basing on the occurrence report, PW2 registered a case in Cr.No.101/2022 for the offence punishable under section 7A r/w 8(e) of A.P. Prohibition Act.

10. The evidence of P.W.1 to P.W.3 who are police officials cannot be discarded on the sole ground that their evidence is found to be incredible or it is unsafe to rely upon their evidence. The evidence of PW1 and PW2 that the accused No.1 was found in possession of I.D. Liquor cannot be relied on, when the evidence of PW1 to PW3 was excluded from consideration, there remains no evidence on record to connect the accused with the commission of said offence. The evidence of P.W.1 and PW2 cannot be discarded on the sole ground that their evidence is found to be incredible or it is unsafe to rely upon their evidence. There is possibility for securing independent mediators, but that was not done. There is no specific reason or

explanation offered by the excise officials for the non-securing of local mediators. In such circumstances, the evidence of PW1 and PW2 needs corroboration by independent evidence. The evidence of PW1 and PW2 that the accused No.1 found in possession of I.D. Liquor cannot be relied on, when the evidence of PW1 and PW2 was excluded from consideration, there remains no evidence on record to connect the accused with the commission of said offence.

11. When the prosecution failed to prove the seizure in the presence of mediators as contemplated under section 100(4) of code of criminal procedure, the case of prosecution is clouded with a shadow of doubt.

12. The Search, seizure and arrest of the accused is in contravention of section 100(4) of Cr.P.C. as the above section itself envisages to secure any of the inhabitants of the locality as mediators. So non-availability of village revenue officer and Sarpanch is not just and reasonable explanation for their non securing independent mediators since any of the villagers are available to act as mediators and the evidence of PW2 is found to be artificial, stereotype and conviction is not proper basing on this type of evidence without independent corroboration.

13. Therefore, in such circumstances the accused No.2 in this case is entitled for benefit of doubt. Hence from the discussion made supra prosecution has failed to prove the guilt of the accused No.2 for the offence charged under section 7A r/w 8(e) of A.P. Prohibition Act beyond all reasonable doubt.

14. In the result, the accused No.2 is found not guilty for the offence under Section 7A r/w 8(e) of A.P. Prohibition Act and accordingly he is acquitted under Section 248(1) of Cr.P.C. The bail bonds of Accused under section 437-A shall be in force for six months. The unmarked property shall be destroyed after expiry of appeal time. Case against A.1 is abated on dt.22.12.2023.

Typed to my dictation by the Stenographer Grade III, corrected and pronounced by me in the open Court, this the 15th day of May, 2024.

Sd/-Smt.J.Sowmya Josphine,
Additional Junior Civil Judge cum
Additional Judicial Magistrate of I Class,
Parvathipuram,
FAC Principal Junior civil Judge cum
Judicial Magistrate of I Class, Parvatipuram.

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

For Prosecution:

P.W.1: V.Vijay Kumar, Police Constable
P.W.2: K.Prayogamurthy, the Sub Inspector of Police
P.W.3: S.K.Fakruddin, the Sub-Inspector of Police

For Defence

- None -

Exhibits Marked

For Prosecution:

Ex.P.1: FIR in cr.No.101/2022 of Parvatipuram Town Police station
Ex.P.2: Occurrence report dated 24.4.2022
Ex.P.3: Analysis report

MATERIAL OBJECTS MARKED

M.O.1: Sample at Sl.No.4255 to 4260.

Sd/-Smt.J.Sowmya Josphine,
Additional Junior Civil Judge cum
Additional Judicial Magistrate of I Class,
Parvathipuram,
FAC Principal Junior civil Judge cum
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CALENDAR AND JUDGMENT

CALENDAR CASE TRIED BY THE THE PRINCIPAL JUNIOR CIVIL JUDGE CUM
JUDICIAL MAGISTRATE OF FIRST CLASS, PARVATIPURAM

1.	Date of offence	:	24.04.2022
2.	Date of report or complaint	:	24.04.2022
3.	Date of apprehension of accused	:	13.03.2023(A.2)
4.	Date of release on bail	:	17.02.2023
5.	Date of commencement of trial	:	10.012024
6.	Date of closure of trial	:	07.05.2024
7.	Date of sentence or order	:	15.05.2024

Judgment in Calendar Case No.910/2023 on the file of the Principal Junior Civil Judge cum Judicial Magistrate of I Class, Parvatipuram.

Complainant: State represented by the Sub Inspector of Police, Parvatipuram Town Police station in Cr.No.101/2022.

Name of the Accused, Husband's Name, Age, Calling, Religion, Village & Mandal

A.1. Sondi Latchu, S/o.late Venkati, 29 years, Peda Relli Veedhi, 25th ward, Parvatipuram Town.(Died)

A.2: Sondi Krishna, S/o.late Polayya, 38 years, Patha relli veedhi, Parvatipuram Town.

Offence: Punishable under section 7A r/w 8(e) of A.P. Prohibition Act.

Finding: Accused No.2 is found not guilty for the offence under Section 7A r/w 8(e) of A.P. Prohibition Act.

Sentence: Accused No.2 is acquitted under Section 248(1) of Cr.P.C. The bail bonds of Accused under section 437-A shall be in force for six months. The M.O.1.shall be destroyed after expiry of appeal time. Case against A.1 is abated on dt.22.12.2023.

Sd/-Smt.J.Sowmya Josphine,
Additional Junior Civil Judge cum
Additional Judicial Magistrate of I Class,
Parvathipuram,
FAC Principal Junior civil Judge cum
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