



**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 811 OF 2016

VADDI RATNAM

...APPELLANT(S)

VERSUS

STATE OF ANDHRA PRADESH

...RESPONDENT(S)

J U D G M E N T

NAGARATHNA, J.

Briefly stated, the facts of the case are that on 01.01.2002, the State Task Force Prohibition and Excise Inspector accompanied by other officials, while on patrolling duty near Dayamani Restaurant, Kathipudi village, noticed two women, namely, the appellant herein (“Accused no.2”) and the co-accused Nerella Vijaya Lakshmi (“Accused no.1”) proceeding on foot. The co-accused was seen carrying a yellow handbag, which she immediately handed over to the appellant herein, upon noticing the raid party. Both the said accused persons tried to flee from the spot however they were

successfully apprehended. Upon enquiry, they disclosed that the handbag contained opium. A search of the bag yielded six packets of opium, out of which five contained one kilogram of opium each, and the sixth contained half a kilogram of opium. During interrogation, both the accused persons stated that they were engaged in the opium trade and disclosed that the contraband had been procured from Anaparthi for resale.

2. Based on the aforesaid facts, Crime No.466 of 2001-02 came to be registered with the Prohibition and Excise Station Prathipadu, District East Godavari, against the appellant herein and the co-accused under Section 8(c) read with Section 9 (vi) of the Narcotic Drugs and Psychotropic Substances Act, 1958 (for short, “NDPS Act”).

3. The Special Sessions Court for Trial of Cases under the NDPS Act (Ist Additional Sessions Court), East Godavari at Rajahmundry (for short, “Trial Court”) framed charges under Section 8(c) read with Section 18 of the NDPS Act. On recording evidence, *vide* judgment and order dated 14.10.2005 in N.D.P.S. S.C No.14 of 2002, the Trial Court convicted the appellant herein and the co-accused under

Section 8(c) read with Section 18 of the NDPS Act, and imposed a minimum sentence of rigorous imprisonment for a period of ten years each. They were further directed to pay a fine of Rs.1,00,000/- each and, in default, to undergo simple imprisonment of 2.5 years each.

4. Being aggrieved, the appellant herein preferred Criminal Appeal No.1775 of 2005 before the High Court of Judicature of Andhra Pradesh at Hyderabad. The High Court, by the impugned judgment dated 04.01.2013, dismissed the criminal appeal filed by the appellant herein and upheld the conviction and sentence imposed by the order of the Trial Court dated 14.10.2005. While dismissing the said criminal appeal, the High Court observed that the Inspector of Prohibition and Excise, State Task Force, Hyderabad (PW5), Superintendent Inspector (PW3) and the Panchayat Secretary (PW1, who was also a mediator for the seizure of contraband from the accused), all supported the version of the prosecution and also confirmed the alleged possession of the contraband by the accused persons. Reference was also made to the chemical examiner's report which opined that the

samples of the seized contraband were opium. Therefore, the High Court concluded that the prosecution was able to establish the recovery of a commercial quantity of opium from the possession of the accused persons.

5. Being aggrieved by the judgment dated 04.01.2013 passed by the learned Single Judge of the High Court of Judicature of Andhra Pradesh at Hyderabad in Criminal Appeal No.1870/2005, the appellant is before this Court. As noted above, by the said judgment, the High Court has affirmed the judgment of conviction and sentence imposed by the Special Court (N.D.P.S. Act-cum-I Additional Sessions Judge, East Godavari at Rajahmundry) in N.D.P.S.S.C. No.14 of 2002 on 14.10.2005.

6. Learned counsel appearing for the respondent/State fairly submitted that insofar as the co-accused is concerned (accused no.1), the High Court by its judgment dated 20.06.2014 passed in Criminal Appeal No.1775/2005 acquitted accused no.1. A copy of the said judgment is also submitted before this Court. He further submitted that as against the said judgment of acquittal, the State has not

taken steps to assail the same. However, insofar as accused no.2 is concerned, by the impugned judgment which was passed earlier to the aforesaid judgment acquitting accused no.1, the appellant herein has been convicted and the sentence imposed by the Special Court has also been affirmed.

7. In response to this submission, appellant's counsel drew our attention to the fact that both the accused were implicated in respect of the very same incident; that common evidence was led in the trial insofar as both the accused are concerned; that when the High Court has acquitted accused no.1 by judgment dated 20.06.2014 passed in Criminal Appeal No.1775/2005 and the State has accepted the said judgment, on the principle of parity, the appellant herein/accused no.2 may also be granted the relief of acquittal by setting aside the impugned judgment. He therefore, submitted that taking into consideration the judgment passed by the High Court in Criminal Appeal No.1775/2005 dated 20.06.2014 and by applying the principle of parity, the impugned judgment may be set aside

and the appellant herein/accused no.2 may also be acquitted.

8. We have considered the arguments advanced at the Bar. We have perused the judgment dated 20.06.2014 passed in Criminal Appeal No.1775/2005 by the High Court while acquitting accused no.1. The relevant portion of the said judgment reads as under: -

“19. Yet another contention of the learned counsel for the appellant is that the conscious possession of the contraband with the appellant was not proved by the prosecution. The appellant-accused along with another person was tried for possession of Opium. It is the case of the prosecution that one of the ladies, who was carrying the bag containing Opium, shifted her bag to the other lady on seeing the police. But the prosecution has miserably failed to prove the person who actually carried the said bag and who actually transferred the said bag to the other lady. P.W.1 who was the mediator, in his chief examination deposed as follows:

“The accused present in the Court hail are the persons arrested by the Excise Police in our presence. He does not remember from whose possession the handbag containing Opium was seized and which of the accused was holding M.O.1 bag containing Opium, for the first time, they noticed them.”

P.Ws.1 and 2, who are mediators to Ex.P1-mediators' report turned hostile. The prosecution is not clear as to the person who was in conscious possession of the contraband. This is a case wherein on conviction minimum 10 years of imprisonment is to be imposed on a person who committed the

crime. In such serious offence, basing on the weak piece of evidence, it is highly unsafe to convict a person for the said offence. Even P.W.5 – who is Prohibition & Excise Inspector has stated that a person who was wearing a white saree was holding the yellow coloured bag and on seeing them, she handed over the said bag to the other lady. Even the evidence of P.W.5 is not specific as to the culprit, who was holding the bag and who transferred the said bag to another lady. The evidence of the Excise Officials do not clearly establish that the appellant was in conscious possession of the said bag. In this background of the matter, this Court feels that it is not safe to convict the appellant for the said offence.

20. Under the above circumstances, this Court is of the view that the trial Court has utterly failed to consider all the above aspects in a proper perspective and as such, the conviction and the sentence imposed against the appellant, are liable to be set aside. Accordingly, the point is answered.

21. In this result, the Criminal Appeal is allowed setting aside the conviction and sentence imposed by the learned Special Sessions Judge for Trial of Cases under the Narcotic Drugs and Psychotropic Substances Act-cum-I Additional Sessions Judge, East Godavari District at Rajahmundry, against the appellant-A1 for the offence under Section 8(c) r/w 18(b) of the NDPS Act in N.D.P.S.S.C. No.14 of 2002 vide judgment dated 14.10.2005. Consequently, the appellant-A1 is acquitted for the said charge. The fine amount paid, if any, shall be refunded to the appellant-A1. Bail bonds shall stand cancelled and the sureties are discharged.”

9. Since the aforesaid judgment has not been assailed by the State, we think it is just and necessary to apply the principle of parity because the complaint as against both the

accused is one and same and a joint trial was conducted in respect of both the accused, common evidence was let in and on the basis of appreciation of the said evidence, the High Court has set aside the judgment of conviction and acquitted accused no.1. In the circumstances, we find that justice would be served in the case if the appellant herein/accused no.2 is also acquitted. Hence, it is unnecessary to reappreciate the evidence on record insofar as this appellant is concerned. Consequently, the impugned judgment passed by the High Court in Criminal Appeal No.1870/2005 as well as in N.D.P.S.S.C. No.14 of 2002 dated 14.10.2005 are set aside insofar as the appellant herein is concerned.

10. This Appeal is allowed in the aforesaid terms by acquitting the appellant herein/accused no.2 of all offences charged under Section 8(c) read with 18 (b) of the N.D.P.S. Act vide Crime No.466 of 2001-02.

11. It is stated at the Bar that the appellant is on bail vide interim order dated 03.10.2016. Her bail bonds hence stand cancelled and the sureties are discharged.

Pending application (s) shall stand disposed of.

.....J.
[B.V. NAGARATHNA]

.....J.
[R. MAHADEVAN]

NEW DELHI
SEPTEMBER 17, 2025