

**IN THE COURT OF THE ADDL.JUDICIAL FIRST CLASS MAGISTRATE ::
PEDDAPURAM::**

PRESENT: Smt G.Bullemma, Additional Judicial First Class Magistrate.
Wednesday, the 9th day of October, 2024.

CALENDER CASE NO.1883/2022

Between

The state, rep by the Station House Officer,
Peddapuram police station.

(Cr.No.209/2022)

..... Complainant

and

A1.Yalla Daveedu

S/o.Nageswararao

Age:30 years, C/Kapu

Marlava village

Peddapuram Mandal.

A2.Nadikatla Sarath

s/o.Brahmam

Age:41 years, C/Settibalija

Peddapuram Mandal.

..... Accused A1 and A2

This case having come up for hearing before me in the presence of Assistant Public Prosecutor for prosecution and Sri P.Bala Krishna, Advocate for the Accused A1 and A2 and the matter having stood over for consideration till this day, this court delivered the following:-

JUDGMENT

1. The Accused A1 and A2 is tried for the offence punishable under section 7(B) r/w 8(B) of A.P Prohibition Act, 2020.
2. The averments of the charge sheet in brief are that on 30.05.2022 evening while LW5 Sri.R.Murali Mohan, SI of Peddapuram Police station received credible information about the Accused A1 and A2 is selling ID arrack and conducted raid by securing LW1 and LW2 who are the mediators with assistance of his staff i.e. LW3 and LW4 near Marlava village of Peddapuram Mandal and there they found the Accused A1 and A2 under suspicious condition in the possession of 3 polythene cover , on examination the 3 polythene covers containing 15 liters of

ID arrack, the Accused A1 and A2 revealed his identity. On that LW5 Sri.R.Murali Mohan, SI of Peddapuram Police station arrested the Accused A1 and A2 seized the 3 plastic covers containing 15 lts of ID arrack and took one sample of 500ml of arrack from the seized arrack into one clean bottle for analysis purpose as sample, sealed the sample bottle, affixed identity slips over them and seized entire property under cover of mediators report drafted in the place of offence.

On the basis of the mediators report, LW5 Sri.R.Murali Mohan, SI of Peddapuram Police station, registered as first information report in Cr.No.209/2022 and forwarded the sample for chemical analysis to Chemical Examiner, Kakinada along with letter of advice for analysis purpose to chemical analyzer, Kakinada. The chemical examiner analyzed sample and opined that the sample at SL.No.19919 is illicitly distilled liquor unfit for human consumption and injurious to health vide CE.No.1443/2022 dt.01.06.2022 Placing reliance on the Chemical analysis report and after completion of entire investigation, LW5. Sri.R.Murali Mohan SI of Police, Peddapuram, filed the charge sheet against the Accused A1 and A2 for the offence under section 7(B) r/w 8(B) of the A.P.P Act.

3. The case is taken on file for the offence punishable under section 7(B) r/w 8(B) of the A.P.P Act against the Accused A1 and A2.
4. On appearance of the Accused A1 and A2, copies of case documents are furnished to the Accused A1 and A2 under section 207 Cr.P.C.
5. Subsequently, the Accused A1 and A2 was examined under Section 239 of Criminal Procedure Code and charge was framed for the offence under Section 7(B) r/w 8(B) of the A.P.P Act and read over and explained the contents of charge to the Accused A1 and A2 in Telugu language. After understood, the Accused A1 and A2 denied the same and pleaded not guilty and claimed to be tried.

6. In the course of trial, the prosecution got examined P.Ws.1 and 2 and got marked Exs.P1 to P3, besides the material object M.O.1.
7. After closure of prosecution evidence, the Accused A1 and A2 is examined under section 313 Cr.P.C explaining the incriminating evidence against him that has come on record through the prosecution witnesses, which the Accused A1 and A2 denied and reported no defence evidence.
8. Heard the Assistant Public Prosecutor for the state and the counsel for the Accused A1 and A2 and perused the evidence, oral and documentary, on record.
9. **Now the point for determination** is whether the prosecution proved the guilt of the Accused A1 and A2 for the offence punishable under Section 7(B) r/w 8(B) of the A.P.P Act, beyond all reasonable doubt?
10. **Point for determination:**

To bring home the guilt of the Accused A1 and A2, the prosecution got examined P.Ws.1 and 2 and got marked Exs.P1 to P3 and M.O.1.

11. P.W.1 testified that he has been working as VRO of Marlava village and on 30.05.2022 at about 05.00 PM while he was present in his house SI of police, Peddapuram police station called me to come to the police station to act as mediator in excise offence, then he went to the police station there he along with SI of police and their staff, LW2 went to Marlava village of Peddapuram Mandal. There they have observed a male person with a white tin moving suspiciously, and on the other hand with a glass. On seeing them he tried to escape. Then, SI of police caught hold the Accused A1 and A2 and asked him why he is try to escape from them then, he replied that, he used to manufacture ID arrack. Accused A1 and A2 revealed their names as Nadikatla Babu and Nadikatla Sarath Then, they checked there, they found 15 Its of ID arrack in 3

polythene covers . Then, police collected samples from the ID arrack 500ml i.e. MO1 from 15ts of ID arrack. On that, himself, SI of police and his staff, VRA signed Accused A1 and A2 thumb impressed on the slip which was stucked on the plastic bottle i.e. MO1. Then, he drafted the mediators reprot i.e. Ex.P1. He along with SI of police and his staff, LW2, signed and Accused A1 and A2 thumb impressed on EX.P1. Then police arrested the Accused A1 and A2. He can identify the Accused A1 and A2 and he is sitting at the dock, in the honourable court.

12. In the cross-examination, PW1 testified that he did not obtain any written permission from his authorities. He informed the same orally to his authorities. They did not measure the ID arrack at scene of offense. It is denied to suggest that, he signed on the report on the instructions of the police and he was not present at the scene of offense at any time.

13. Pw-2 testified that he worked as SI of Police, Peddapuram P.S on 30.05.2022 at about 5.30 PM he received credible information about the manufacturing of ID arrack and then he along with his staff and VRO went to Marlava village of Peddapuram Mandal and found one male person in a suspicious manner. On seeing them they tried to escape from us, but his was caught hold by us and on enquiry he revealed their names as Yallal Daveedu and Nadikatla Sarath and identify as Accused A1 and A2 in this case. On enquiry, the Accused A1 and A2 stated that they possessed ID arrack. Then on verification we found a white 3 plastic bags containing 15lts of ID arrack then he lifted 500ml samples of ID arrack for analysis purpose, accordingly, PW1 drafted mediator report and he along with his staff and Accused A1 and A2 signed on it.

The admitted sample bottle with identity slip is marked as MO1.. The PW1 drafter mediator report at scene offence. The admitted special report is marked as Ex.P1. On Ex.P1, himself and his staff, PW1 and Accused A1 and A2 signed on it.

After returning to the police station i registered a case in Cr.No. 209/2022 for the offence U/sec 7-B R/W 8-B of AP Prohibition Act. The admitted FIR is marked as Exp2 Then he produced the Accused A1 and A2 before Hon'ble court for judicial remand. I also forwarded a letter of advice to the expert for analysis. The admitted letter of advice is marked as the Ex. P3 and analysis report is marked as the EX.P4

14. In the cross- examination, PW2 testified They did not obtain any photographs at the scene. It is denied to suggest that, they never visit the scene of offense prepared the mediator report at police station and taken the signatures on the same. It is denied to suggest that, Accused A1 and A2 has no way concern to this case and he filed the case against the Accused A1 and A2 for statistical purpose.

15. On perusing the evidence of P.Ws.1 and 2, it came to light that P.W.1 stated in his chief examination as he along with one SI of police signed on Ex.P1 and Accused A1 and A2 also signed on it, but the remaining police staff who accompanied P.W.2, was not affixed their signatures of Ex.P1. P.W.1 admitted in his cross-examination as he did not mentioned in Ex.P1 that the physical features of the Accused A1 and A2 and the colour of the tin is also not mentioned in Ex.P1 report. P.W.2 admitted that in his presence police seized the I.D arrack and lifted 300 ml. of Arrack for analysis purpose, but the M.O.1 bottle is obtained only 200 ml. drink bottle.

16. In the cross-examination P.W.1 that the physical features of the Accused A1 and A2 was not mentioned in Ex.P1 mediator nama report as per no

identification of the Accused A1 and A2 in this case. P.W.1 admitted that he along with other mediator Sub-Inspector of police, police constables were went to the alleged scene of offence, but on Ex.P1, Sub-Inspector of police, himself, other mediator and Accused A1 and A2 affixed signatures, the remaining police constables were not affixed their signatures on Ex.P1. If the other constables are went to the scene of offence their signatures are crucial. The prosecution has failed to prove the guilt of the Accused A1 and A2 as he has in possession of 15 liters of I.D.Liquor without having any valid license for the purpose of selling ID Arrack, So, there is no serious material contradiction with respect to reaching the scene by P.W.1 who is alleged mediator in this case.

17. I feel P.W.1 really went to the alleged scene of offence along with P.W.2 and the proceedings really conducted in his presence and he noted proceedings with hand writing. Any doubt arise from the prosecution evidence, benefit of doubt should always give in favour of the Accused A1 and A2. It is a fit case to give the benefit of doubt to the Accused A1 and A2. Accordingly it is my humble opinion that prosecution has failed to prove the offence under Section 7(B) r/w 8(B) of A.P.P.Act, beyond all reasonable doubt. hence accordingly the Accused A1 and A2 person is acquitted.

18. In the result, the Accused A1 and A2 is found not guilty for the offence punishable under Section 7(B) r/w 8(B) of A.P.P.Act and are accordingly acquitted under section 248(1) Criminal Procedure Code. The Material Objects M.O.1 shall be destroyed, after expiry of appeal time. The bail bonds of the Accused A1 and A2 shall in force for a period of six months, in view of section 437-A of Cr.P.C.

Dictated to the shorthand writer, corrected and pronounced by me in the open court on this the 9th day of October, 2024.

Addl. J.F.C. Magistrate-cum
Addl. Junior Civil Judge,
Peddapuram.

APPENDIX OF EVIDENCE

Witnesses Examined

For Prosecution:-

P.W.1 :15.05.2024: Koppireddi Chakra Subrahmanaym, VRO, Peddapuram.

P.W.2: 01.08.2024 :R.Murali Mohan Sub-Inspector of police, Peddapuram PS

For Defence:- None.

Exhibits marked

For Prosecution:-

Ex. P1 : 30.05.2022 : Mediator report

Ex.P2 : 30.05.2022 : F.I.R

Ex. P3 : 30.05.2022 : Letter of Advice

Ex. P4 : 09.06.2022 : Chemical analysis report

For Defence:- Nil.

Materi Objects Marked

M.O.1 : Sample bottle

Addl. J.F.C. Magistrate-cum
Addl. Junior Civil Judge,
Peddapuram.

CALENDAR AND JUDGMENT

IN THE COURT OF THE ADDITIONAL JUDICIAL FIRST CLASS MAGISTRATE:
PEDDAPURAM.

Present: Smt G.Bullemma Ist Additional Judicial First Class Magistrate
Wednesday, the 9th day of October, 2024.

CALENDER CASE NO.1883/2022

Date of

Offence : 30.05.2022

Complaint : 30.05.2022

Appearance of Accused A1
and A2 07.02.2023

Arrest of the Accused A1 and
A2 : 30.05.2022

Released on bail : 12.08.2022

Commencement of trial : 15.05.2024

Closure of trial : 01.08.2024

Sentence/Order : 09.10.2024

Reasons for delay : No delay.

Name of the complainant : The state, rep by the Station House
Officer, Peddapuram police station
(Cr.No.209/2022)

Name of the Accused A1 and
A2 : A1.Yalla Daveedu
S/o.Nageswararao
Age:30 years, C/Kapu
Marlava village
Peddapuram Mandal.
A2.Nadikatla Sarath
s/o.Brahmam
Age:41 years, C/Settibalija
Peddapuram Mandal.

Offence : under section 7(B) r/w 8(B) of Andhra Pradesh
Prohibition Act.

Plea of the Accused A1 and
A2 : Not guilty.

Finding : The Accused A1 and A2 is found not guilty for
the offence punishable under Section 7(B) r/w
8(B) of A.P.P.Act

Sentence : In the result, the Accused A1 and A2 is found
not guilty for the offence punishable under
Section 7(B) r/w 8(B) of A.P.P.Act and are
accordingly acquitted under section 248(1)
Criminal Procedure Code. The Material Objects
M.O.1 shall be destroyed, after expiry of
appeal time. The bail bonds of the Accused

A1 and A2 shall in force for a period of six months, in view of section 437-A of Cr.P.C.

Addl. J.F.C. Magistrate-cum
Peddapuram

Copy submitted to the Honourable Chief Judicial Magistrate, East Godavari,
Rajamahendravaram.