

CALENDAR & JUDGMENT
IN THE COURT OF THE I ADDL. JUNIOR CIVIL JUDGE, SATTENAPALLI.
CALENDAR CASE No.821/2022

1. Date of Offence	:	04-10-2022
2. Date of Complaint or report	:	04-10-2022
3. Date of apprehension of the accused	:	---
4. Date of release on bail	:	---
5. Date of commencement of trial	:	09-11-2023
6. Date of close of trial	:	27-12-2023
7. Date of Sentence or Order	:	06-01-2024
8. Explanation of delay if any	:	No delay

COMPLAINANT:

State Rep by its Sub-Inspector of Police,
 Atchampeta Police station

ACCUSED:

1. Revulamadugu Raja Siva Sankar, S/o. Markandeyulu, 32 years,
 R/o. Chamarru village, Atchampeta Mandal.
 (Owner cum Driver of Tractor bearing No. AP 39 G 0073)
2. Kolagani Srinivasa Rao, S/o. Veera Sankara Rao, 31 years,
 R/o. Madipadu village, Now R/o. Atchampeta village,
 (Owner of tractor bearing No. AP 07 CQ 1472)

Section of Law : u/sec.379 of IPC

Finding of Court : Accused are found not guilty.

Sentence/ Order: In the result, A1 and A2 are found not guilty for the offence punishable u/sec.379 of IPC and accordingly, they are acquitted under Sec.248(1) of Cr.P.C. Bail bonds of the accused if any shall be in force for six months u/Sec. 437-A of Cr.P.C. No property was produced by the Investigating officer nor marked during the course of trial as such there is no order for property.

**I ADDL. JUNIOR CIVIL JUDGE,
 SATTENAPALLI.**

Copy submitted to the Chief Judicial Magistrate, Guntur District.

IN THE COURT OF THE I ADDL. JUNIOR CIVIL JUDGE, SATTENAPALLI
PRESENT:-Sri.A.Thousheed Hussain,
I Addl. Junior Civil Judge, Sattenapalli.
Saturday, this the 06th day of January, 2024
CALENDAR CASE No.821/2022

Between:

State Rep by its Sub-Inspector of Police,

Atchampeta Police station. Complainant.

-And-

1. Revulamadugu Raja Siva Sankar, S/o. Markandeyulu, 32 years,
R/o. Chamarru village, Atchampeta Mandal.
(Owner cum Driver of Tractor bearing No. AP 39 G 0073)
2. Kolagani Srinivasa Rao, S/o. Veera Sankara Rao, 31 years,
R/o. Madipadu village, Now R/o. Atchampeta village,
(Owner of tractor bearing No. AP 07 CQ 1472)

... Accused.

This case is coming on this day for hearing before me in the presence of learned APP for complainant and Sri.B.Narasimha Rao, learned counsel for accused having stood over till this day for consideration this court delivered the following:-

J U D G E M E N T

1. State represented by Sub-Inspector of Police, Atchampeta Police Station filed a charge sheet against the accused in Cr.No.131/2022 of Atchampeta P.S for the offence punishable U/s.379 of IPC and U/s.21(1) of MMDRA Act .

2. The brief facts of the prosecution case were as follows:

On 04.10.2022 at about 07.00 A.M the LW5-K.Paul Ravinder/SI of police received credible information about illegal transportation of sand. Then the LW5/SI of police along with his staff i.e, LWs1, 2, mediators i.e, LWs3 and 4 went near to Krishna river road of Chamarru village of Atchampeta Mandal. There they found two persons coming with sand loaded tractors. On seeing LWs1 to 5, the said persons tried to escape, but with the assistance of his staff LW5/SI of police caught hold of them. On enquiry they disclosed their identity as A1 and A2 and the accused confessed that inorder to gain money they are taking sand from Krishna river and selling the same illegally. On that the LW5/SI of police seized the sand loaded tractor under the cover of mediator report. Thereafter the LW5/SI of police brought seized property and accused to the police station. Basing on the police proceedings the LW5/SI of police registered a case in Cr.No.131/2022 for the offence U/s.379 of

IPC and U/s.21(1) of MMDRA Act. Thereafter the LW5/SI of police examined LWs1, 2 and recorded their detailed statements and on the same day he went to the scene of offence place, inspected it and drew rough sketch. Thereafter he served 41-A notice to accused. Later the LW5/SI of police handed over the seized tractors along with trucks to accused basing on the instructions of Mines and Geology Department. After completion of investigation, LW5/SI of police filed charge sheet. Hence the charge.

3. This case was taken on file for the offence U/s.379 of IPC.

4. On appearance of the accused the case papers were served to the accused as contemplated u/sec.207 of Cr.P.C.

5. A1 and A2 were examined u/Sec.239 Cr.P.C and charge for the offence U/s.379 of IPC against the accused was framed, read over and explained to the accused in Telugu. Accused pleaded not guilty and claimed to be tried.

6. During the course of trial of this case, the prosecution has examined P.W.1 to P.W.3 and got marked Exs.P1 to P3. The learned APP gave up the evidence of remaining witnesses.

7. A1 and A2 were examined u/sec.313 Cr.P.C. with the incriminating material available in the evidence of the prosecution witnesses, the accused denied the same and did not adduce any defence evidence on her behalf.

8. Heard learned Assistant Public Prosecutor and counsel for accused. Perused the record.

9. Now the point for consideration is:
“Whether the prosecution is able to bring home the guilt of accused for the offence punishable U/s.379 of IPC beyond all reasonable doubt?”

10. Point:

In order to bring home the guilt of the accused, the prosecution has examined P.W.1 to P.W.3 and got marked Exs.P1 to P3.

11. The case of the prosecution is that on 04.10.2022 PW3 received credible information about illegal transportation of sand. Then PW3 along with his staff and mediators went to Krishna river road of Chamarru village and found accused transporting sand illegally with his tractor.

12. In order to substantiate the case of the prosecution, it is the evidence of PW1/Sk.Noor Basha/Police constable that on 07.03.2022 at 07.00 A.M LW1/Head constable received credible information and then he along with his staff and mediators went to Chamarru village and there they found two tractors with sand load. On seeing the police, the accused who are drivers of the tractors tried to escape. Then they caught hold of accused and produced them before LW1/Head constable. On enquiry the accused confessed that he brought the sand from Krishna river inorder to sell the same in nearby villages. Then the LW1 enquired the accused about license to transport sand. For which the accused stated that they have no license. Then the LW1 seized the tractors along with sand from the possession of accused under the cover of mediator report in the presence of mediators.

13. PW2 who is said to be mediator, has deposed that on 04.10.2022 at 07.00 A.M at request of LW5/SI of police he went to Chamarru village and there in his presence LW5 enquired the accused and the accused confessed that he is transporting sand illegally inorder to sell the same at high rates. On that the LW5 in their presence seized the tractor loaded with sand under the cover of mediator report and he signed on it.

14. As seen the evidence of investigating officer/PW3 deposed that 04.10.2022 at 07.00 A.M he received credible information and then he along with his staff and mediators went to Chamarru village and there they found two tractors with sand load. On seeing the police, the accused who are drivers of the tractors tried to escape. Then they caught hold of accused. On enquiry the accused confessed that they brought the sand from Krishna river inorder to sell the same in nearby

villages. Then he enquired the accused about license to transport sand. For which the accused stated that they have no license. Then he seized the tractors along with sand from the possession of accused under the cover of mediator report in the presence of mediators. The PW3 further deposed that basing on the mediator report, he registered FIR in Cr.No.131/2022 U/s.379 of IPC and U/s.21(1) of MMDAR Act. Thereafter he took up investigation and examined witnesses and recorded their statements. Later he visited scene of offence, inspected it and prepared rough sketch and served 41-A Cr.P.C notice to accused and after completion of investigation he filed charge sheet before the court.

15. During cross examination P.Ws.1, 3 admitted that scene of offence is a busy locality and they did not issue any written summons to revenue officials or individuals to act as mediators in this case. The PW2 also admitted that police did not issue any written summons to him and even he did not obtain any order from his higher officials to act as mediator in this case.

15. It is an apparent fact that the alleged seizure took place near Krishna river road of Chinthapalli village. When general public are readily available in the scene of offence, why the Investigation Officer did not take pain to join the local inhabitants as mediators is not explained by the prosecution. Even no written summons were issued to PW2. If really the PW2 is requested by PW3 to act as mediator in this case, the PW3 is expected to give written summons to PW2. So, the presence of PW2 at the alleged seizure becomes doubtful.

16. Moreover, according to Section 100(4), CrPC *“Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situate or of any other locality if no such inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search and may issue an order in writing to them or any of them so to do.”* Thus, it is clear that Section 100(4), Cr.P.C has mandated that seizure must be witnessed by at

least 2 (two) independent witnesses. But PW3 failed to secure local inhabitants to act as mediators at the time of seizure of alleged liquor bottles from the possession of accused. Hence contents of Ex.P1 mediator report remain unproved.

17. So there is no other independent evidence brought on record to prove the accusation levelled against accused. Even PWs1 and 3 failed take photographs pertaining to the tractor as well as sand. The PW3 also failed to join the person to whom he handed over alleged sand and who issued Ex.P4/receipt to him. P.Ws.1 and 3 are interested witnesses and without any independent evidence on record, it is not safe to rely on their evidence.

18. Therefore, in view of the evidence let in by the prosecution, this court opines that the prosecution failed to prove the guilt of the accused for the offence punishable u/sec.379 of IPC beyond all reasonable doubt.

19. In the result, A1 and A2 are found not guilty for the offence punishable u/sec.379 of IPC and accordingly, they are acquitted under Sec.248(1) of Cr.P.C. Bail bonds of the accused if any shall be in force for six months u/Sec. 437-A of Cr.P.C. No property was produced by the Investigating officer nor marked during the course of trial as such there is no order for property.

Typed to my dictation to Stenographer on Computer, corrected and pronounced by me in open court on this day of 06th day of January, 2024.

**I ADDL. JUNIOR CIVIL JUDGE,
SATTENAPALLI.**

Appendix of Evidence
Witnesses Examined

For prosecution:

P.W.1 K.Victor Paul/Head constable
P.W.2 P.Ramesh/VRA
P.W.3 K.PaulRavindar/SI of police

For Defence: - None-

Exhibits Marked.

For Prosecution:

Ex.P1 is the mediator report
Ex.P2 is the FIR.
Ex.P3 is the rough sketch.

For Defence: -Nil-

Material objects marked.

-Nil-

**I ADDL. JUNIOR CIVIL JUDGE,
SATTENAPALLI.**