

IN THE COURT OF THE II ADDL. JUNIOR CIVIL JUDGE-CUM-VI ADDL.
METROPOLITAN MAGISTRATE, MEDCHAL-MALKAJGIRI DISTRICT,
UPPAL, AT L.B. NAGAR

PRESENT: SRI. G. SAI SHARATH
II ADDL. JUNIOR CIVIL JUDGE-CUM-
VI ADDL. METROPOLITAN MAGISTRATE
UPPAL AT L.B. NAGAR.

Dated on this day of 20th day of September 2023

Calendar Case No. 4179 of 2022

Between:

The State, represented through Sub-Inspector of police,
P.S Excise & Prohibition, Uppal

...Complainant

And

M. Rama Krishna, S/o. M. Govardhan,
Aged 29 years,
R/o. H. No. 3-3-5/51

.... Accused No. 1

This calendar case came before me for final hearing on 04-09-2023 in the presence of Learned Assistant Public Prosecutor for the State and Learned counsel for Accused, **Sri. T. Pulla Reddy**, upon perusing the material available on record and upon hearing the arguments of both sides, the matter stood over for consideration, till this day, this court delivered the following:

J U D G M E N T

01. The State represented by the Prohibition and Excise Sub-Inspector, Excise Station Uppal filed a charge sheet in Cr.No. 129 of 2017 against the Accused No.1 for the offence punishable U/Sec. 8(b)(i) of AP Prohibition Act, 1995.

02. The brief case of the prosecution as per the charge sheet is as follows:

2.1 On 06-07-2017 basing on reliable information about illegal transportation of Illicit distilled liquor through the road, Sri Nagar Colony, Ramanthapur, Uppal Mandal, LW3 along with his staff went to the scene of

offence and there he secured the presence of two panch witnesses i.e, LW1 and LW2. At about 5:35pm accused no.1 was moving suspiciously at the the place with one plastic bag and on seeing LW3 the accused ran away. On search of accused no.1 he was found in possession of illicit distilled liquor i.e., 12 bottles of Officer Choice Reserve Whisky each bottle containing 180 ml. Upon enquiry accused no.1 confesses that accused no.1. Further LW3 drawn two samples, seized the samples and remaining contraband under the cover of panchanama in the presence of Lw1 and 2. Accuse no 1 contravened the provisions of section 7 of A.P.Prohibition Amendment Act, 1995.

2.2 Lw3 registered a case against the accused and issued a Cr.No. 129/2017 under section 8(b)(i) of AP Prohibition Act, 1995, produced accused no.1 before the court for judicial remand. Out of the two samples drawn one sample was forwarded to the chemical examiner of Prohibition and Excise, Uppal, the second sample are deposited before the court vide CPR No. 938/2017. The remaining seized property was deposited before the Deputy Commissioner of Excise, Ranga Reddy District. The Government chemical examiner after analyzing the samples, issued CE report no. 6828/2017/1, dt. 23.10.2017 opined that the sample contains alcohol, it is Indian liquor. After completion of investigation LW3 had filed the chargesheet before this court.

3. Upon consideration of material placed before the court, cognizance for the offence u/s 8(b)(i) of AP Prohibition Act, 1995. On the appearance of the accused, copies of documents were furnisehd to him as contemplated under Sec. 207 of Criminal Procedure Code, 1973 (hereinafter referred as Cr.P.C.).

4. The accused no.1 was examined u/sec. 239 of Cr.P.C, charge was framed for the offence U/s. 240 of Criminal Procedure Code for the offence u/s. 8(b)(i) of AP Prohibition Act, 1995 against accused, said charge was read over and explained to accused person in his native language. Having understood the charge framed, he denied the charge. On question of plea of guilt, he pleaded not guilty and claimed to be tried. Hence, the trial against the accused.

5. To prove the guilt of accused person, the prosecution out of listed witnesses i.e, LW1 and LW2 , PS Uppal Excise constable filed report stating that LW1 and LW2 whereabouts are not known and cannot be served. Hence, the evidence of LW1 and LW2.

6. After closure of prosecution evidence, PS Excise Police Constable has filed report stating that LW3 is suffering with recurrence head and neck cancer and admitted in hospital. Hence, the evidence of LW3 is closed. As there is not incriminating material around. Hence, section 313 CrPC examination is dispensed.

7. Heard learned Assistant Public Prosecutor and learned counsel for the accused.

8. Now the point for determination is:

Whether the prosecution proved its case by proving the charge for the offences punishable U/s 8(b)(i) of AP Prohibition Act, 1995 against accused beyond reasonable doubt?

9. POINT: The case of the prosecution is that the accused person has committed an offence u/sec. 8(b)(i) of AP Prohibition Act, 1995. Accordingly, the prosecution has to prove that the accused person had

produced, manufactured, stored, produced, manufactured, stored, possessed, collected, purchased, sold and transported the arrack.

10. In present facts and circumstances of this case, and upon careful scrutiny and evaluation of evidence on record, it could be seen that it is the contention of prosecution that LW3 seized the contraband from the possession of the accused persons and drawn two samples out of the same. However, the panch witnesses were not examined by the prosecution. There is no material on record to corroborate the version of LW3 with regard to the seized contraband from the possession of accused. Though it was asserted that LW1 along with his staff went to the suspected place, none of the staff members were examined. There is no evidence to prove the fact that the accused was in possession of the contraband. LW3 is evidence of investigating officer who filed chargesheet. This Court is of opinion that it is not proper to convict the accused persons basing on the sole evidence of Investigating Officers, in the absence of corroborative evidence with the independent witnesses. Therefore, prosecution failed to prove the charge beyond reasonable doubt. Hence, accused is entitled for acquittal.

11. **In the result**, the Accused No.1 is found not guilty for the offence punishable u/Sec. 8(b)(i) of AP Prohibition Act, 1995 and consequently he is acquitted u/Sec.248 (1) of Cr.P.C. The bail bonds of the accused shall remain in force for a period of six months from the date of judgment as per Sec.437-A Cr.P.C for preferring appeal to the Higher Court.

Typed to my dictation by stenographer, corrected and pronounced by me in the open Court on this the 20th day of September, 2023

**II ADDL. JUNIOR CIVIL JUDGE CUM
VI ADDL METROPOLITAN MAGISTRATE
MEDCHAL-MALKAJGIRI DISTRICT
UPPAL AT L.B. NAGAR**

APPENDIX OF EVIDENCE

WITNESSES EXAMINED

FOR PROSECUTION:

- NIL -

FOR DEFENCE:

- NIL -

EXHIBITS MARKED

FOR PROSECUTION:

- NIL -

FOR DEFENCE:

- NIL -

MATERIAL OBJECTS

- NIL -

II ADDL. JUNIOR CIVIL JUDGE CUM
VI ADDL METROPOLITAN MAGISTRATE
MEDCHAL-MALKAJGIRI DISTRICT
UPPAL AT L.B. NAGAR

F O R M No: 71
CALENDAR AND JUDGMENT

District: Ranga Reddy : II Addl. Junior Civil Judge -cum-
VI Addl. Metropolitan Magistrate
Malkajgiri- Medchal District

Calendar of case tried by : **Sri G. Sai Sharath**
II Addl. Junior Civil Judge -cum-
VI Addl. Metropolitan Magistrate
Malkajgiri- Medchal District

Date of Offence : 06-07-2017

Date of report or complaint : 06-07-2017

Date of apprehension of accused : 06-07-2017

Date of commencement of trial : 04-08-2023

Date of Closure of trial : 30-08-2023

Date of sentence of order : 20-09-2023

Explanation of delay and remarks: Due to non-production of
Witnesses by the
prosecution side

Judgment and calendar case No : 4179 of 2022

Complainant : P.S. Uppal

Name of the CCL : M. Rama Krishna

Offence : U/s. 7(A) r/w. 8(e) of T.S.
Prohibition Act, 1995,

Finding : Not guilty

Sentence : Acquitted U/s.248 (1)Cr.p.c

**II ADDL. JUNIOR CIVIL JUDGE CUM
VI ADDL METROPOLITAN MAGISTRATE
MEDCHAL-MALKAJGIRI DISTRICT
UPPAL AT L.B. NAGAR**