

**IN THE COURT OF THE PRINCIPAL JUNIOR CIVIL JUDGE-CUM-
JUDICIAL MAGISTRATE OF THE FIRST CLASS, NARSAPUR.**

Present : Sri K.Srinivas, I Addl. Junior Civil Judge-cum-I Additional Judicial
Magistrate of First Class, Narsapur,
(FAC)Principal Junior Civi Judge-cum- Judicial Magistrate of First
Class, Narsapur.

Wednesday, this the 18th day of October, 2023

C.C.NO.385/2022

Between:

State represented by the Sub-Inspector, Special Enforcement Bureau Station,
Narsapur.

...Complainant

And:

Sanaboina Ram Babu, S/o. Suryanarayana, Age 47 years, Caste: Settibalija,
R/o. K.P.Palem village, Mogaltur Mandal.

...Accused

This case is coming before me on 10.10.2023 for final hearing in the
presence of the learned Assistant Public Prosecutor for the State and Sri
T.Venkateswara Rao, Advocate for the accused, and after hearing the
arguments, having stood over for consideration till this day, this Court
delivered the following:

J U D G M E N T

1. The State represented by the Sub-Inspector, Special Enforcement Bureau
Station, Narsapur filed charge sheet against the accused in Crime
No.364/2021 for the offence punishable under Section 7B read with 8B of the
A.P.Prohibition Act, 1995, as amended by the A.P.Prohibition (Amendment) Act,
2020.

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

On 16.12.2021 at about 04.30 p.m., PW.1 and his staff were conducted
raid in K.P.Palem village. Wherein accused was found by holding one plastic
bag at his right hand. On seeing the raid party, accused tried to escape from
the spot and then PW.1 apprehended him with the assistance of his staff. On
interrogation, accused confessed about the crime. PW.1 seized 4 litres of I.D.
arrack from the possession of the accused and got prepared special report.
Basing on the special report, he registered FIR as a case in Crime No.364/2021

for the offence under Section 7B read with Section 8B of A.P. Prohibition Act. PW.1 sent the sample to the chemical examiner at Kakinada and received analysis report. As per the analysis report, the I.D. arrack which was seized by the investigation officer from the possession of accused is illicitly distilled liquor, unfit for human consumption and injurious to health. After completion of investigation, he filed charge sheet.

3. Cognizance was taken by my learned predecessor for the offence under Section 7B read with Section 8B of the A.P. Prohibition Act, 1995 against the accused.

4. On appearance of the accused, copies of the case documents were furnished to the accused as contemplated under Section 207 of the Cr.P.C.

5. The accused was examined under Section 239 of the Cr.P.C. on the contents of the documents, for which he denied the offence. After hearing and on consideration, a charge punishable under Section 7B read with Section 8B of the A.P.Prohibition Act, 1995 was framed, read over and explained to him in Telugu, for which he denied the charge, pleaded not guilty and claimed to be tried.

6. In order to prove the case of prosecution, the prosecution cited as many as two witnesses, but examined one witness and got marked Exs.P1 to P5 and M.O.1. Ex.P1 is the Special Report, Ex.P2 is the FIR, Ex.P3 is the Letter of Advice, Ex.P4 is the Chemical Analysis Report, Ex.P5 is the Destruction proceedings and M.O.1 is the sample bottle.

7. After closure of the prosecution side evidence, the accused was examined under Section 313 of the Cr.P.C., explaining the incriminating material leveled against him, for which, he denied the same and reported no defence evidence.

8. Heard arguments on both sides. Perused the record.

9. Now the point for determination is that -

Whether the prosecution has established the guilt of the accused beyond all reasonable doubt for the offence under Section 7B read with Section 8B of the A.P. Prohibition Act, 1995 ?

P O I N T :

10. P.W.1 who is no other than the investigation officer who spoke about conducting raid, seizure of I.D. arrack, registration of FIR and other material aspects. According to his version, on 16.12.2021 at about 04.30 p.m., he along with his staff LW.2-A.D.Prasad, Head Constable, were conducted raid in K.P.Palem village, there they found the accused by holding one plastic cover at his right hand. On seeing the raid party, accused tried to ran away from the spot and then PW.1 detained the accused and on interrogation, accused confessed the crime. The evidence of PW.1 goes to show that he interrogated the accused, searched the bag and found 2 plastic bottles which are containing 2 litres of I.D. liquor in each bottle, in total 4 litres of I.D. liquor. On that he drafted special report for arrest and seizure. PW.1 further gave evidence that he separated 300ml of I.D. liquor for chemical analysis. Through PW.1, Ex.P1 to P5 and M.O.1 sample bottle were marked.

11. It is elicited from the cross-examination of PW.1 that the scene of offence is a residential area and public vicinity. Admittedly, PW.1 has not secured independent witnesses at the time of seizure. PW.1 apprehended the accused near the house of the accused, but he did not secure any independent witnesses. Except the sole testimony of PW.1, no other piece of independent evidence is available to corroborate the prosecution case. The extra judicial confession given by the accused before PW.1 is not acted upon. In fact, no other piece of evidence is available to corroborate the evidence of PW.1. Therefore, prosecution has failed to establish the seizure of M.O.1 from the accused on 16.12.2021. Therefore, prosecution miserably failed to establish the

ingredients under Section 7B read with Section 8B of A.P.Prohibition Act. Accordingly, point is answered.

12. In the result, the accused is found not guilty for the offence punishable under Section 7B read with Section 8B of the A.P.Prohibition Act, 1995 and he is acquitted under Section 248(1) of the Cr.P.C. The bail bonds of the accused shall be in force for a period of six months under Section 437-A of the Cr.P.C. M.O.1 sample bottle shall be destroyed after expiry of appeal time.

Dictated to the Stenographer, corrected, and pronounced by me in open Court, on this the 18th day of October, 2023.

Sd/- K.Srinivas,
I Addl. Junior Civil Judge-cum-I Addl.
Judl. Magistrate of the First Class, Narsapur,
(FAC) Principal Junior Civil Judge-cum-
Judicial Magistrate of the First Class,
Narsapur.

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

FOR PROSECUTION:

PW.1: Y.Gowri Sankar, Sub-Inspector, SEB Station, Narsapur

FOR DEFENCE

-- None --

EXHIBITS MARKED

FOR PROSECUTION:

Ex.P1: Special Report dated 16.12.2021.
Ex.P2: FIR in Crime No.364/2021 dated 16.12.2021.
Ex.P3: Letter of Advice.
Ex.P4: Chemical Analysis Report dated 11.02.2022.
Ex.P5: Destruction Proceedings 24.06.2022.

FOR DEFENCE

-- Nil --

M.Os MARKED

M.O.1: Sample bottle of ID arrack.

Sd/- K.Srinivas,
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Judl. Magistrate of the First Class, Narsapur,
(FAC) Principal Junior Civil Judge-cum-
Judicial Magistrate of the First Class,
Narsapur.

CALENDAR AND JUDGMENT

District of West Godavari
Calendar of Cases tried by PRINCIPAL JUNIOR CIVIL JUDGE CUM-JUDICIAL
MAGISTRATE OF THE FIRST CLASS, NARSAPUR

Date of offence (1)	Report of complaint (2)	Apprehension of Accused (3)	Release on bail (4)
16.12.2021	16.12.2021	16.12.2021	21.12.2021
Commencement of trial (5)	Close of trial (6)	Sentence of order (7)	Explanation for delay (8)
22.09.2023	10.10.2023	18.10.2023	Due to non-production of witnesses from time to time.

Judgment of Calendar Case No.**385/2022** on the file of Principal Junior Civil Judge-cum-Judicial Magistrate of the First Class, Narsapur.

Complainant: The State Rep. by the Sub-Inspector, Special Enforcement Bureau Staton, Narsapur in Crime No.364/2021 of Special Enforcement Bureau Station, Narsaur.

Name of the Accused	Father Name	Age	Caste/Religion:	Calling	Village
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Sanaboina Ram Babu, S/o. Suryanarayana, Age 47 years, Caste: Settibalija, R/o. K.P.Palem village, Mogaltur Mandal.

Offence : Under Section 7B read with Section 8B of A.P.Prohibition Act, 1995.

Finding : Accused is found not guilty.

Sentence : In the result, the accused is found not guilty for the offence punishable under Section 7B read with Section 8B of the A.P.Prohibition Act, 1995 and he is acquitted under Section 248(1) of the Cr.P.C. The bail bonds of the accused shall be in force for a period of six months under Section 437-A of the Cr.P.C. M.O.1 sample bottle shall be destroyed after expiry of appeal time.

Sd/- K.Srinivas,
I Addl. Junior Civil Judge-cum-I Addl.
Judl. Magistrate of the First Class, Narsapur,
(FAC) Principal Junior Civil Judge-cum-
Judicial Magistrate of the First Class,
Narsapur.

Copy submitted to the I Additional District Judge, West Godavari, Eluru (through CD)
Copy to the Superintendent, Special Enforcement Bureau, Bhimavaram, W.G.District.