

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-CUM-
JUNIOR CIVIL JUDGE :: PEDDAPURAM::**

PRESENT: Sri.G.HARSHA VARDHAN, Judicial First Class Magistrate-cum-
Principal Civil Judge(Junior Division), Peddapuram.

Tuesday, the 31st day of December, 2024

CALENDER CASE NO.1293 of 2022

Between :

STATE – The Sub-Inspector of police,
Jaggampeta police station. **(Cr.No.75/2022)**

..... Complainant

AND

1. Laveti Siva, S/o.Appa Rao, A/28 years, C/Settibalija,
Kammariveedhi, Marlava, Peddapuram Mandal.

2. Nadigatla Manikanta, S/o.Venakata Ramana, A/22 yrs,
C/Settibalija, Kammariveedhi, Marlava, Peddapuram Mandal.

..... Accused

This case having come up for hearing before me on this day in the presence of Sri D.Nagaraju, Assistant Public Prosecutor for prosecution and Sri.P.Suguna Rao, learned Advocate for the accused and the matter having stood over for consideration till this day, this court delivered the following:-

J U D G M E N T

1. This is an offence of illegally transporting and possession of I.D.Arrack for the purpose of sale. This is an offence of boot legging activities under Section 7(B) r/w 8(B) of A.P. Prohibition Act,2020.

2. The averments of the charge sheet in brief are as follows:

On 10.03.2023 at near Pushkara canal, Marripaka road at the outskirts of Ramavaram Village, Jaggampeta Mandal, the A1 and A2 are transporting ID arrack, on receipt of information LW6-T.Raghunadha Rao, is the Sub-Inspector of police, along with LW1/B.Banga Raju PC 515 , LW2/K.Suresh HG 1129 and R.Easwararao, HG 1027 of Jaggampeta Police Station arrested the accused persons are transporing the 40 liters of ID arrack worth about Rs.4,000/- and SI of police preserved sample of 250 ML of arrack was separated into four plastic bottles from the seized four colored plastic covers from them for analysis. Basing on Occurrence report, SI of police registered as a case in Cr.No.75/2022 for the offence

under Section 7(B) r/w 8(B) of A.P.P.Act-2020. After receiving the analysis report as "It is unfit for human consumption and injurious to health" and after completion of entire investigation, SI of police, filed charge sheet. Hence charge.

3. The case is taken on file for the offence under Section 7(B) r/w 8 (B) of A.P. Prohibition Act- 2020 against the accused.
4. On appearance of the accused, copies of case documents are furnished to the accused under section 207 Cr.P.C.
5. Subsequently, the accused were examined under Section 239 of Criminal Procedure Code and charge were framed for the under Section 7(B) r/w. 8(B) of A.P. Prohibition Act-2020 and read over and explained the contents of charge to the accused in Telugu language. After understood, the accused are 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 4, besides the material object M.O.1 & 2.
7. After closure of prosecution evidence, the accused are examined under section 351 BNSS explaining the incriminating evidence against the accused that has come on record through the prosecution witnesses, which the accused are denied and reported no defence evidence.
8. Heard the Assistant Public Prosecutor for the state and the counsel for the accused 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 for the offence punishable under Section 7(B) r/w. 8 (B) of A.P. Prohibition Act-2020, beyond all reasonable doubt?

10. **Point :**

To bring home the guilt of the accused, the prosecution got examined P.Ws.1 & 2 and got marked Exs.P1 to P4 and the admitted sample bottles are marked as M.O.1 & M.O.2.

11. LW4/Bellapu Raju, VRO appeared as PW1 and he deposed that on 10.03.2022 at about 8:30 AM, SI of police, Jaggampeta informed to act as a mediator. Himself , SI of police, VRA and police staff went to Ramavaram Village, Puskar Kaluva and found two male persons possession of ID arrack. On seeing them, they tried to escape from that place, but police caught hold them. On enquiry they came to know that, their names as Laveti Siva, Naddigatla Manikanta. Verified the person at the scene of offence they found 10 liters of ID arrack in 1 polythene cover and police seized Honda Activa. Then police lifted 2 samples of 250 ml ID arrack from packets for analysis purpose. Accordingly, he drafted mediator report and it is marked as Ex.P1. The admitted sample bottles are marked as M.O.1 and M.O.2.

In cross he stated that it is true, he did not mention the direction of the offence with reference to the village, police did not serve any written summons they informed to act as a mediator orally. He did not obtain any permission from MRO, he did not gave any on duty certificate to police. Police did not tried to secure any independent witness at the scene. In Ex.P1 he did not mention any place of work or other professional details completely. In Ex.P1 he did not mention from which direction to which direction the accused was tried to skulk away. The contraband was estimated approximately. He denied the suggestion that, he signed on a blank paper, Ex.P1 is not drafted at the scene. They did not obtain any photographs at the scene, they never visit the scene of offence prepared

the mediator at police station and taken the signatures on the same, the accused has no way connected to this case.

12. T.Raghunadha Rao, SI of police appeared as PW2 stated on 10.03.2022 at about 8:30 AM on credible information he along with his staff conducted raid , and they went to Ramavaram Village and found two male persons stood on suspicious manner by holding one mica bag. On seeing them they tried to escape from there, but they caught hold them and on enquiry they revealed their names as Laveti Siva, Nadigatla Manikanta On enquiry, the accused stated that they are in possession of ID arrack on Activa scooty bearing No.AP 05 DL 5001. On verification they found 40 lts of ID arrack in 4 polythene covers. Then SI of police lifted 4 samples 250 ML of ID arrack was drawn for analysis. SI of police brought the accused and contraband to the station. On basing on the mediator report it is marked as Ex.P1/PW1 and he registered FIR in Cr.No.75/2022 under Section 7(B) r/w.8(B) of APP Act 2020, FIR is marked as Ex.P2/PW2, he send the letter of advice, Ex.P3/PW2 is letter of advice, he received chemical analysis report from analysis expert, Ex.P4/PW2 is chemical analysis report. Basing on the material he filed the charge sheet against the accused.

13. In cross-examination he stated that he received information at 8:00 AM and secured mediators and went to the scene of offence by 8:30 AM, he did not prepare rough sketch, he did not obtain photographs at the scene. The quantity of contraband is estimated approximately, he did not seized the particulars of activa scooty bearing No.AP 05 DL 5001. He denied the suggestion that , the scene of offence is a busy locality, and he deposing false as accused did not commit any offence.

14. This court relied upon the judgment in Mudavath Mothia Vs State of A.P delivered by the Hon'ble High Court of A.P, held that "when the Excise officials are entrusted with the investigation of cognizable offence, they become police officials and the Excise officials can never say that they are not the police officials. When once they become police officials the confession recorded by them with the proceedings is in admissible. Moreover, the panchanama prepared by the Excise officials is hit by Section 25, 27 of Indian evidence act, 1872 and Section 161 of Cr.P.C. The benefit if any arises due to any invalidity of the investigation, only goes to the accused. Once the panchanama is hit by Section 25 and 27 of the Indian evidence Act and Section 161 of Cr.P.C, and when the independent witnesses are not examined by the prosecution, the prosecution theory of seizing the sachets from the custody of the accused has to be looked with suspicion. The non examination of independent mediator is fatal to the prosecution version. The seizure proceedings drafted also cannot be considered in view of the bar under Section 25 and 27 of Indian Evidence Act, 1872 and Section 161 of Cr.P.C".
15. Further, P.W.2 did not made any effort for securing the presence of mediators, no document is filed to the effect of asking any third party to act as mediator or refusal of that third party to act so. Thus, except the self serving testimony of complainant personnel, no independent witness is examined as to seizure of the alleged contraband from the accused and lifting of the M.O.1 to MO.4 samples from that alleged contraband. Hence, in the absence of any corroborative evidence from independent source as to the recovery of the alleged illicitly distilled liquor from the possession of the accused. In this case the investigating officer and informant are same person. The Court did not find it safe to conclude affirmatively on the basis of the self serving testimony of P.W.2 that the accused committed the

offence punishable under Section 7(B) r/w 8(B) of A.P. Prohibition Act-2020. So, the accused is entitled for acquittal. As a consequence, the Court is of the finding that the prosecution failed to prove the guilt of the accused for the offence punishable under Section 7(B) r/w 8 (B) of A.P. Prohibition Act, beyond all reasonable doubt. Accordingly, the point is determined.

16. In the result, Accused is **not found guilty** for the offence punishable under Section 7(B) r/w. 8 (B) of Andhra Pradesh Prohibition (Amendment) Act -2020. Consequently accused is **acquitted** under section 248(1) Cr.P.C. The M.O.1 to M.O.4 shall be destroyed, after expiry of appeal time. Bail bonds of the Accused shall in force for a period of six months, in view of section 437-A of Cr.P.C.

Typed to my dictation by the Stenographer Grade-III, corrected and pronounced by me in the open court on this the 31st day of December, 2024.

Sd/-G.Harsha Vardhan
J.F.C. Magistrate
Peddapuram.

APPENDIX OF EVIDENCE **Witnesses Examined**

For Prosecution:-

P.W.1 : 13.06.2024 : Bellapu Raju, VRO.

P.W.2: 19.11.2024 : T.Raghunadha Rao, SI of police.

For Defence:- None.

Court witness :- None.

Exhibits marked

For Prosecution:-

Ex. P1/PW1 : 10.03.2022 : Mediator Report

Ex. P2/PW2 : 10.03.2022 : F.I.R

Ex. P3/PW2 : 10.03.2022 : Letter of advice

Ex. P4/PW2 : 17.03.2022 : Chemical analysis report.

For Defence:- Nil.

For Court :- Nil.

Material Objects Marked

M.O.1 to M.O.4 : **are** sample bottles.

Sd/-G.Harsha Vardhan
Judicial First class Magistrate,
Peddapuram.

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Judicial First class Magistrate,
Peddapuram.

**CALENDAR AND JUDGMENT
IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-CUM-
PRINCIPAL CIVIL JUDGE (JUNIOR DIVISION):: PEDDAPURAM::**

PRESENT: Sri.G.HARSHA VARDHAN,
Judicial First Class Magistrate-cum- Principal Civil Judge(Junior Division),
Peddapuram.

Tuesday, the 31st day of December, 2024

CALENDER CASE NO.1293 of 2022

Date of	:	
Offence	:	10.03.2022
Complaint	:	10.03.2022
Appearance of accused	:	19.06.2023
Arrest of the accused	:	10.03.2023
Released on bail	:	11.03.2022
Commencement of trial	:	13.06.2024
Closure of trial	:	19.12.2024
Sentence/Order	:	31.12.2024
Reasons for delay	:	No delay.
Name of the complainant	:	The state, rep by the Sub-Inspector of police, Jaggampeta Police Station (Cr.No.75/2022)
Name of the accused	:	1. Laveti Siva, S/o.Appa Rao, A/28 years, C/Settibalija, Kammariveedhi, Marlava, Peddapuram Mandal. 2. Nadigatla Manikanta, S/o.Venakata Ramana, A/22 yrs, C/Settibalija, Kammariveedhi, Marlava, Peddapuram Mandal.
Offence	:	under Section 7(B) r/w.8(B) of A.P. Prohibition(Amendment) Act-2020.
Plea of the accused	:	Not guilty.
Finding and Sentence	:	The Accused A1 & A2 are not found guilty for the offence punishable under Section 7(B) r/w 8 (B) of Andhra Pradesh Prohibition (Amendment) Act -2020. Consequently accused is acquitted under section 248(1) Cr.P.C. The M.O.1 to MO.4 shall be destroyed, after expiry of appeal time. Bail bonds of the Accused shall in force for a period of six months, in view of section 437-A of Cr.P.C.

Sd/-G.Harsha Vardhan
Judicial First Class Magistrate
Peddapuram.

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

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Judicial First class Magistrate,
Peddapuram.

