
(2017) 10 SC CK 0012

In the Supreme Court Of India

Case No : CRIMINAL APPEAL NO. 2149 of 2009

Jupudi Anand Gupta

APPELLANT

Vs

State of Andhra Pradesh and Ors.

RESPONDENT

Date of Decision : 12-10-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 252](#), [Section 243](#) - Conviction on plea of guilty - Evidence for defence

[Andhra Pradesh Gaming Act, 1974](#), [Section 9\(1\)](#) - Penalty for gaming or setting birds or animals to fight in a public street or place

Citation : (2017) 10 SC CK 0012

Hon'ble Judges : S.A. Bobde, J; L. Nageswara Rao, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. The appellant was convicted by the Additional Judicial Magistrate, First Class, Sangareddy under Section 252 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for the offence punishable under Section 9(1) of the A.P. Gaming Act, since he was found conducting matka (a game) near Vysya Bank, Sastry Road, Sadasivpet. The conviction was recorded and matka chits and a sum of Rs. 130/- were recovered from him. The way the conviction was recorded and the way it had been treated by the Courts is the only point for consideration before us. 2. The Principal Sessions Judge, Medak had set aside the sentence of imprisonment but upheld the conviction of the appellant and imposed a fine of Rs. 300/-. The High Court rejected the revision against the judgment of the learned Principal Sessions Judge, Medak. Hence this appeal. 3. Heard learned counsel for the parties. 4. Learned counsel for the appellant submits that as a result of the conviction, the appellant lost his job and therefore, the validity of the conviction is important. The only point urged before us is that the conviction was not recorded in accordance with law and, therefore, the judgment convicting him was in violation of Section 243 of the Cr.P.C. In his judgment the Additional

Judicial Magistrate, First Class, Sangareddy, had merely stated as follows: "...The contents of the charge sheet read over and explained to him in Telugu to what he pleaded guilty. I am satisfied that the plea of the accused is voluntary and I accepted the same..." The learned Magistrate had not recorded the words used by the appellant. 5. Reliance is placed by the learned counsel for the appellant upon the judgment of this Court in the case of *Shri Mahant Kaushalya Das v. State of Madras* reported in (1966) 1 SCR 229, wherein this Court reproduced the observations of the learned Magistrate, which read as follows : ".....Accused produced, Pleads guilty. Found guilty....." 6. Viewing the above confession in the light of Section 243 of the CrI.P.C., this Court observed as follows : "...It is manifest from the record that the admission of the appellant has not been recorded "as nearly as possible in the words used by him", as required by Section 243 of the Criminal Procedure Code. It is true that in the judgment dated March 22, 1963 the Magistrate has said that the appellant "pleads guilty", but the record contains no indication whatsoever as to what exactly the appellant admitted before the Magistrate. In our opinion, the requirements of Section 243 of the Criminal Procedure Code are mandatory in character and a violation of these provisions vitiates the trial and renders the conviction legally invalid. The requirement of the section is not a mere empty formality but is a matter of substance intended to secure proper administration of justice. It is important that the terms of the section are strictly complied with because the right of appeal of the accused depends upon the circumstance whether he pleaded guilty or not and it is for this reason that the legislature required that the exact words used by the accused in his plea of guilty should, as nearly as possible, be recorded in his own language in order to prevent any mistake or misapprehension. It has been held by the Madras High Court in *Queen-Empress v. Erugadu*, ILR 15 Mad 83 that the violation of the procedure in Section 243 of the Criminal Procedure Code was sufficiently serious to invalidate the conviction of the accused. The same view has been taken by the Calcutta High Court in *Shallabala Dasee v. Emperor*, ILR 62 Cal II 27 and by the Allahabad High Court in *Mukandi Lal v. State*, AIR 1952 Allahabad 212. In our opinion, these cases correctly lay down the law on the point." 7. It is clear that for the same reasons, the conviction of the appellant is not sustainable. We, accordingly, set aside the conviction of the appellant. Ordered accordingly. 8. The appeal is, accordingly, disposed of.