
(2013) 04 AP CK 0077

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 3237 of 2013

Remidi Srinivas Reddy and M. Veerachander

APPELLANT

Vs

State of A.P.

RESPONDENT

Date of Decision : 18-04-2013

Acts Referred:

Andhra Pradesh Excise Act, 1968 — Section 34(a)
Criminal Procedure Code, 1973 (CrPC) — Section 161

Citation : (2013) 2 ALD(Cri) 395

Hon'ble Judges : R. Kantha Rao, J

Bench : Single Bench

Advocate : B. Muralidhar, for the Appellant;

Final Decision : Allowed

Judgement

R. Kantha Rao, J.—Heard learned counsel for the petitioners and learned Additional Public Prosecutor appearing for the respondent-State. The petitioners are A3 and A4 in C.C. No. 379 of 2012 on the file of the Additional Judicial First Class Magistrate, Warangal. The police allegedly raided the kirana shop of A1 and seized some liquor bottles from the said shop in the presence of mediators.

2. According to the prosecution, A1 confessed before the Investigating Officer that he purchased the liquor bottles from the shop of A3 and A4 and was selling them in the kirana shop, without having valid licence at high prices. Pursuant thereto, A3 and A4, who are owners of Parkline Wines, were also charge-sheeted by the Investigating Officer.

3. Sri P. Prabhakar Reddy, learned counsel appearing for the petitioners would submit that except the mere assertion made by the Investigating Officer in the charge sheet that A1 confessed before him with regard to purchase of the liquor bottles from the Wine shop of A3 and A4, absolutely no material was collected by the Investigating Officer to show that A3 and A4 have authorized A1 to sell the liquor bottles from his kirana shop.

4. As can be seen from the record, it appears that none of the witnesses stated about the involvement of A3 and A4 in the commission of offence i.e., authorizing A1 to sell the liquor bottles from his kirana shop. Further, the Wine shop was also not inspected by the Investigating Officer and he did not gather any material to show that the liquor bottles were allegedly kept by A3 and A4 in the kirana shop of A1 for sale. Therefore, even if the witnesses give evidence as per the statements recorded by the police u/s 161 Cr.P.C., there is no possibility for the prosecution to secure conviction. Absolutely there is no material on record showing that A3 and A4 committed the offence u/s 34(a) of the A.P. Excise Act or any other offence.

5. For the foregoing reasons, the entire proceedings in C.C. No. 379 of 2012 on the file of the Additional Judicial First Class Magistrate, Warangal are quashed. Accordingly, the Criminal Petition is allowed.