



IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

Crl.P.No.8470 of 2022

Between:

The State of Andhra Pradesh
Through the Inspector of Police,
Special Enforcement Bureau, Gooty,
Represented by its Public Prosecutor,
High Court of Andhra Pradesh at Amaravati

... **Petitioner**

AND

\$ Ejarla Badarinath,
S/o. Subbaiah, aged 71 years,
R/o.D.No.4-154, SLN Temple Street,
Pamidi Town, Ananthapuramu District.

... **Respondent**

Date of Judgment pronounced on : 28-11-2022

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

1. Whether Reporters of Local newspapers
May be allowed to see the judgments? : Yes/No
2. Whether the copies of judgment may be marked
to Law Reporters/Journals: : Yes/No
3. Whether the Lordship wishes to see the fair copy
Of the Judgment? : Yes/No



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*** HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

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... Respondent

! Counsel for petitioner : Learned Public Prosecutor

^Counsel for Respondent : No appearance

<GIST:

>HEAD NOTE:

? Cases referred:

¹ 2014 13 SCC 100

² 2020 12 SCC 733



HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO
CRIMINAL PETITION No.8470 of 2022

ORDER:

Crime No.128 of 2022 was registered at SEB Station, Gooty against some accused persons for illicit distillation of liquor. On the basis of the statement/confession given by accused No.1 in the case, about 3000 kgs of Black Jaggery and 60 kg of White Jaggery were seized from the respondent/accused No.2. Thereupon, the respondent had approached the Magistrate for release of the said seized Jaggery by way of CrI.M.P.No.255 of 2022, under Section 451 of Cr.P.C and the same was allowed on 21.07.2022.

2. Aggrieved by the said order of CrI.R.P.No.36 of 2022 was filed before the VI Additional Sessions Court, Ananthapuramu. This petition was dismissed on 20.09.2022. Aggrieved by the said order of dismissal the State has approached this Court by way of the present Criminal Petition.

3. The issue raised in the present case is whether the Magistrate had jurisdiction to consider an application for



release of Jaggery. The learned Public Prosecutor relies upon Section 13(E) of the Andhra Pradesh Prohibition Act which reads as follows: -

“ **Bar of Jurisdiction** - Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) when the Deputy Commissioner of Prohibition and Excise or the appellate authority is seized with the matter under this Act, **no court shall entertain any application in respect of excisable articles, any package, covering, receptacle, any animal, vehicle or other conveyance used in carrying such articles as far as its release, confiscation is concerned and the jurisdiction of the Deputy Commissioner of Prohibition and Excise or the appellate authority with regard to the disposed of the same shall be exclusive.**”

4. It is the contention of the learned Public Prosecutor that the said provision clearly bars any application for release of Jaggery being filed before the Jurisdictional Magistrate. He relies upon the Judgment of the Hon'ble Supreme Court of India in the case of *State (NCT of Delhi) Vs. Narender*¹, *State of Madhya Pradesh Vs. Uday Singh*² and the order in *S.L.P.(Crl).No.3061 of 2010*.

¹ 2014 13 SCC 100

² 2020 12 SCC 733



6. The Hon'ble Supreme Court of India in *State (NCT of Delhi) Vs. Narender, State of Madhya Pradesh Vs. Uday Singh* had held that where ever a bar is engrafted prohibiting the filing of applications in special statutes, before a regular Magistrate, such applications cannot be maintained.

7. The question before this Court is whether there is such a bar for release of Jaggery, which is said to be the raw material which is used for illicit distillation of liquor.

8. The language in Section 13(E) bars applications in respect of liquor and any receptacle, package, vehicle or other conveyance used for carrying such liquor. It is clear that it is only transport of liquor which attracts the provisions of Section-13(E) and the same cannot be extended to transport or storage of raw material used for manufacture of such liquor.

9. In the circumstances, the bar under Section-13(E) is not available and the Magistrate can consider applications for release of Jaggery which is at best a raw material used for illicit distillation of liquor.



10. In the circumstances, this Court does not find any error in law or fact for any intervention to be carried out by this Court.

11. Accordingly, this Criminal Petition is dismissed. There shall be no order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

28.11.2022
BSM

R. RAGHUNANDAN RAO, J.



HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

CRIMINAL PETITION No.8470 of 2022

28-11-2022

BSM