

A STATE REP. BY TAHSILDAR-CUM-SALES OFFICER

v.

M. JANKIRAMAN & ANR.

(Criminal Appeal No. 557-558 of 2002)

FEBRUARY 9, 2009

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**[DR. ARIJIT PASAYAT AND ASOK KUMAR  
GANGULY, JJ.]**

*Pondicherry Excise Act, 1970 – ss. 31, 33 and 37(a) –  
C Conviction by trial court and appellate court – Acquittal in  
revision – On appeal, held: Since the acquittal order was  
unreasoned, matter remitted to High Court.*

**Respondents-accused were convicted u/ss. 31, 33  
D and 37 (a) and of Pondicherry Excise Act, 1970 by trial  
court and appellate court. In revision, High Court  
acquitted them. Hence the present appeal.**

**Partly allowing the appeals and remitting the matter  
to High Court, the Court**

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**HELD: The evidence of the witnesses and the  
conclusions of the trial Court and the first appellate court  
have not been referred to at all in the judgment of the High  
Court. When two courts had found the accused persons  
F guilty, the High Court has not even indicated as to how  
the conclusions of the trial court and the appellate court  
were without any basis or not sustainable. The manner  
of disposal of the revision petitions leaves much to be  
desired. [Para 5] [1079-D-G]**

**G CRIMINAL APPELLATE JURISDICTION : Criminal Appeal  
No. 557-558 of 2002.**

**From the Judgment and Order dated 14.9.2001 of the High  
Court of Judicature at Madras in Crl. R.C. Nos. 249 and 278**

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of 1998.

V. Kanakaraj, V.G. Pragasam, S.J. Aristotle, Prabu Rama Subramanian and S. Thananjayan for the Appellant.

P. Radha Rani and P. Vijay Kumar (for C.S.N. Mohan Rao) for the Respondents.

Th Judgment of the Court was delivered by

**DR. ARIJIT PASAYAT, J.1.** Challenge in these appeals is to the judgment of acquittal recorded by a learned Single Judge of the Madras High Court. The respondents were accused in C.C.No.195 of 1991 on the file of Chief Judicial Magistrate, Pondicherry. Both of them were convicted for offences punishable under Sections 31, 33, 37(a) and 38(1) of Pondicherry Excise Act, 1970 (in short the 'Act') and each of them were sentenced to undergo rigorous imprisonment for six months under each head and the sentences were ordered to run concurrently and fine of Rs.10,000/- with default stipulation was imposed. Appeals were preferred by the accused persons and learned IIInd Additional Sessions Judge, Pondicherry affirmed the conviction so far as offence punishable under Sections 31, 33 and 37(a) are concerned. But the sentences were modified. The accused persons filed a Criminal Revision petitions before the Madras High Court.

2. Background facts in a nutshell are as follows:

On 28.4.1990 at 7.30 a.m. Tahsildar (Excise) Visanathan (PW-5) alongwith his officials and police party went on a routine raid and they received information that some people were indulging in manufacturing illicit Indian Made Foreign Liquor (IMPL) at Aranganoor. They reached Aranganoor and when they went near the unfinished house of accused No.1 Janakiraman, they noticed the smell of arrack coming from that house. On seeing them, a person who was standing there, ran away and they found a lady there. On enquiry, they came to know that she was Vasantha @ Kumari, the daughter-in-law of Janakiraman

- A and the person who ran away from there, was accused No.2  
Settu another son of Janakiraman and the house belonged to  
accused No.1. Janakiraman. Excise Officer, Viswanathan  
(P.W.5) found a room in the house locked. When enquired,  
Vasantha told them that the key was with accused No.2 who  
B ran away from there. Thereupon, the lock was broken and they  
went inside and saw 2000 bottles containing illicit liquor  
(manufactured brandy) and they also found apparatus and other  
items for manufacturing illicit brandy alongwith empty bottles.  
Viswanathan (P.W.5) seized the materials under cover of  
C Mahazar in the presence of Vasantha and Assistant Inspector.  
P.W registered a case in Crime No.4 of 1990 under Sections  
31, 33, 37(a) and 38(1) of the Act and sent the samples for  
chemical analysis. He examined the witnesses and made the  
final report. The trial Court and the first Appellate Court found  
D the accused persons guilty.

The High Court by the impugned order allowed the  
Revision Petitions.

3. In support of the appeals, learned counsel for the  
E appellant-State submitted that the High Court's judgment is  
practically non-reasoned. It does not refer to the factual scenario  
or the evidence. Mere reference has been made to certain  
judgments of the High Court and this Court without even  
indicating as to how they are relevant for the purpose of this  
F case. Learned counsel for the respondents supported the  
judgment of the High Court.

4. We find that the only reason indicated by the High Court  
to direct acquittal reads as follows:

- G "Chapter VIII of Pondicherry Excise Act deals with  
detection, investigation and trial of offences and its  
empowers the excise officers to conduct search to seize  
the articles liable for confiscation, to arrest without warrant  
to conduct investigation and to complete it since the excise  
H officer is empowered to conduct search and is also entitled

to make investigation and complete the same in accordance with law. The fact that the complainant himself conducted investigation in the present case would not vitiate the proceedings. The contention of the petitioners that the procedure adopted by PW-5 in filing the complaint and conducting the investigation are vitiated by illegality cannot be accepted."

5. The evidence of the witnesses and the conclusions of the trial Court and the first Appellate Court have not been referred to at all. When two courts had found the accused persons guilty, the High Court has even not indicated as to how the conclusions of the trial Court and the Appellate court were without any basis or not sustainable. The manner of disposal of the Revision Petitions leaves much to be desired. Above being the position, we set aside the impugned judgment of the High Court and remit the matter to the High Court for a fresh consideration and disposal by a reasoned order. Needless to say that the factual scenario and the evidence has to be analysed by the High Court while deciding the revision petitions afresh.

6. The appeals are allowed to the aforesaid extent.

K.K.T.

Appeals partly allowed.