

Surepally Srinivas vs The State Of Andhra Pradesh Now State Of ... on 25 March, 2025

Author: Dipankar Datta

Bench: Dipankar Datta

NON-REPORTABLE

2025 INSC 414

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1474 OF 2025
[ARISING OUT OF SLP (CrI.) NO. 14265 OF 2024]

SUREPALLY SRINIVAS

...APPELLANT

VERSUS

THE STATE OF ANDHRA PRADESH
(NOW STATE OF TELANGANA)

...RESPONDENT

WITH

CRIMINAL APPEAL Nos. 1475-1476 OF 2025
[ARISING OUT OF SLP (CrI.) NOs. 14266-14267 OF 2024]

EDIGI RAMAIAH AND OTHERS ETC. ETC.

...APPELLANTS

VERSUS

THE STATE OF ANDHRA PRADESH
(NOW STATE OF TELANGANA)

...RESPONDENT

JUDGMENT

DIPANKAR DATTA, J.

1. Leave granted.

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2. These three criminal appeals are directed against a common judgment and order dated 27th June, 2024¹, passed by a learned Judge of the High Court for the State of Telangana at Hyderabad disposing of a criminal appeal² and dismissing two other criminal appeals³. Such appeals had been carried to the High Court from the judgment of conviction and order on sentence dated 17th September, 2012 in SC No. 37 of 2010, recorded by the Metropolitan Sessions Judge, Cyberabad. The appellants before the High Court, after being jointly tried, were convicted for commission of offence punishable under Section 8(c) read with Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1984⁴ and all of them, except the appellant Surepally Srinivas⁵, were sentenced to 10 years rigorous imprisonment plus fine of Rs. 1,00,000/- each whereas A-1 was sentenced to 20 years rigorous imprisonment plus fine of Rs. 1,00,000/-.

3. By the impugned order of disposal of a criminal appeal, the High Court acquitted two of the appellants (A2 and A8) and reduced the sentence imposed on A1 from 20 years to 10 years R.I. However, the conviction and sentence of the appellants (A3 to A7) were maintained, leading to dismissal of their appeals.

4. Mr. Gupta, learned senior counsel for A-1 and Ms. Madhavan, learned counsel for A-3 to A-7 argues in unison that the conviction of all the appellants recorded by the Sessions Judge, since affirmed by the High Court, is indefensible having regard to patent violations of the provisions of impugned order Criminal Appeal No.943 of 2012 Criminal Appeal Nos. 972 and 999 of 2012 NDPS Act A-1 2 of 7 Sections 42 and 52A, NDPS Act. They further contend that Standing Order No.1/89 issued by the Central Government, as notified vide notification dated 13th June, 1989 has also been clearly breached. Additionally, it has been brought to our notice by them that the Sessions Judge returned clear findings of lapses having been committed by the investigating officer in seizing and sealing of the alleged contraband (600 kgs. of dry ganja) as well as in respect of storage thereof prior to the samples being produced in court, yet, the said judge proceeded to convict the appellants on the ground that the evidence of the prosecution was more trustworthy without realising that want of substantial compliance with Section 52A, NDPS Act and Standing Order No.1/1989 would render the case of the prosecution suspect and unsubstantiated. That apart, it has been shown from the judgment of conviction recorded by the Sessions Judge that several points that were urged on behalf of the appellants had not been considered and dealt with at all.

5. Insofar as the impugned order is concerned, it was jointly contented by Mr. Gupta and Ms. Madhavan that the same is cryptic whereas as an appellate court, the High Court owed a duty to reappraise and reanalyse the evidence on record coupled with ascertainment as to whether the procedural safeguards provided by the NDPS Act have been followed in letter and spirit; however, the High Court failed in such a duty by abruptly coming to the conclusion that the conviction was correctly recorded.

6. The impugned order was also assailed by Mr. Gupta and Ms. Madhavan with reference to acquittal of A-2 and A-8 on the same set of evidence. They 3 of 7 contend that since A-2 and A-8 were acquitted, there was no justifiable reason not to acquit the other appellants.

7. The decisions of this Court in Noor Agha v. State of Punjab⁶, Union of India v. Mohanlal⁷ and Bharat Ambale v. State of Chattisgarh⁸ were placed in support of the contentions that the appeals deserve to be allowed by setting aside the conviction.

8. Mr. Vaibhaw, learned counsel representing the respondent-State of Telengana, however, has assiduously argued that even if there be violations of Sections 42 and 52A, NDPS Act, the same are not so significant as to vitiate the conviction recorded by the Sessions Judge. He has relied on the decision in Narcotics Control Bureau v. Kashif⁹ in support of the contention that any and every violation does not have the effect of vitiating the case of the prosecution and that the alleged violation has to be viewed from the perspective of the nature of the duty imposed on the investigation officer by the relevant statutory provision and its effect on the conviction. According to him, substantial compliance would be sufficient for the court not to record an order of acquittal and that this onus of proving substantial compliance was duly discharged.

9. In the alternative, Mr. Vaibhaw argues that if this Court were to take the view that the impugned order fails to discuss the points raised on behalf of the appellants as well as reappraise and reanalyse the evidence as the first appellate court, it would be proper for this Court to set aside the (2008) 16 SCC 417 (2016) 3 SCC 379 2025 SCC OnLine SC 110 2024 SCC OnLine Sc 3848 4 of 7 impugned order and require the High Court to hear the appeals on remand, afresh.

10. We have heard Mr. Gupta and Ms. Madhavan as well as Mr. Vaibhaw at some length.

11. Having considered the arguments on behalf of the appellants, we find sufficient force in it. The date of the incident is 18th June, 2010. The contraband was produced in court for the first time on 3rd July, 2010. In between, the contraband was in the custody of the investigating officer, i.e., PW-3, in a separate room in his office. Standing Order No.1/89 laid down the procedure for sampling, storage and disposal of seized contraband. It is not in dispute that PW-3 admitted his ignorance about the existence of any such standing order.

12. We do not propose to hold that a conviction should be interdicted for any minor breach of Standing Order No.1/89. What is required is a substantial compliance of the statutory provisions and the procedure laid down in such standing order.

13. In Bharat Aambale (supra), this Court held that the purport of Section 52- A, NDPS Act read with Standing Order No. 1/89 extends beyond mere disposal and destruction of seized contraband and serves a broader purpose of strengthening the evidentiary framework under the NDPS Act. This decision stresses upon the fact that what is to be seen is whether there has been substantial compliance with the mandate of Section 52-A and if not, the prosecution must satisfy the court that such non-compliance does not affect its case against the accused. This is also what has been held in Kashif (supra).

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14. In the present case, from the evidence on record, it can be seen and it is clear that the seized contraband was not properly sealed. Coupled with this is the fact of the seized contraband not being produced before the trial court prior to 3rd July, 2010. It is difficult to accept the prosecution case that though there may not have been strict compliance of Standing Order No.1/89, the seized contraband was not tampered at all. Keeping of the seized contraband by PW-3 in a separate room in his office for fifteen days could give rise to an allegation that the seized contraband was by itself substituted and some other items planted to falsely implicate the accused. To avoid suspicious circumstances and to ensure fair procedure in respect of search and seizure, it is always desirable to follow the standing order which provides suitable guidance for the officers investigating crimes under the NDPS Act. Should there be any departure, the same must be based on justifiable and reasonable grounds. We are, satisfied, on appreciation of the evidence on record, that the possibility of tampering during this fifteen-day period cannot be totally ruled out and that not only has there been no substantial compliance of the standing order, the departure has also not been justified.

15. We have also found from the materials on record that there has been clear non-compliance with the provisions contained in Section 52-A of the NDPS Act. Either possibly due to lack of experience of the investigating officer or his lack of knowledge of the relevant provisions of the NDPS Act, there were lapses which were duly noted by the Sessions Judge. Thus, we are unable to hold that there was primary and reliable evidence before the trial court in respect of the offence committed. The onus of proving that compliance 6 of 7 with Section 52-A did not affect the case of the prosecution has not been duly discharged by the prosecution.

16. For the foregoing reasons, we are inclined to extend the benefit of doubt to the appellants. The judgment of conviction and order on sentence passed by the Sessions Judge, since affirmed by the High Court, stands set aside. The appeals stand allowed.

17. The appellants are in custody, since their applications for exemption from surrendering were dismissed by the Court. They shall now be set free provided they are not wanted in any other case.

..... J.

(DIPANKAR DATTA) J.

(MANMOHAN) NEW DELHI;

MARCH 25, 2025.

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ITEM NO.11

COURT NO.14

SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CRIMINAL) No(s).14265/2024 [Arising out of impugned final judgment and order dated 27.06.2024 in CrI. Appeal No.943 of 2012 passed by the High Court for the State of Telangana at Hyderabad] SUREPALLY SRINIVAS Appellant(s) VERSUS THE STATE OF ANDHRA PRADESH (NOW STATE OF TELANGANA) Respondent(s) IA No. 189403/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 189401/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES WITH SLP(CrI.) Nos.14266-14267/2024 (II) IA No. 174403/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT Date : 25-03-2025 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPANKAR DATTA HON'BLE MR. JUSTICE MANMOHAN For Appellant(s) Mr. Gagan Gupta, Sr. Adv.

Mr. Divyanshu Rai, AOR Mr. K. Dayakar Reddy, Adv.

Mr. Vishal Sharma, Adv.

Mr. Taruna, Adv.

Ms. Bina Madhavan, Adv.

Mr. S. Udaya Kumar Sagar, Adv.

Mr. Tushar Singh, Adv.

Mr. S. Tridev Sagar, Adv.

For M/S. Lawyer S Knit & Co, AOR For Respondent(s) Mr. Kumar Vaibhaw, Adv.

Ms. Devina Sehgal, AOR Mr. S. Uday Bhanu, Adv.

Mr. Dhananjay Yadav, Adv.

Mr. Yatharth Kansal, Adv.

UPON hearing the counsel the Court made the following O R D E R

1. Leave granted.

2. The relevant portion of the order reads as under:-

‘The appellants are in custody, since their applications for exemption from surrendering were dismissed by the Court.

They shall now be set free
provided they are not wanted in
any other case.’

3. The appeal are allowed in terms of the non-reportable judgment.

4. Pending application(s), if any, shall stand disposed of.

(RASHMI DHYANI PANT)
ASTT. REGISTRAR-cum-PS

(PREETI SAXENA)
COURT MASTER (NSH)

(Signed non-reportable judgment is placed on the file)