

APHC010664672009



IN THE HIGH COURT OF ANDHRA
PRADESH AT AMARAVATI
(Special Original Jurisdiction)

[3368]

WEDNESDAY, THE TWENTY NINETH DAY OF APRIL

TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI

CRIMINAL APPEAL NO: 7/2009

Between:

1. NEERUDI DHANAMMA,, W/O KUMAR, VEGETABLE BUSINESS,
R/O H.NO. 5-143/1, BHARATHNAGAR, UPPAL,

...APELLANT

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC
PROSECUTOR, HIGH COURT OF A.P., AT HYDERABAD,
THROUGH SHO., DONKARAYI, PS., EAST GODAVARI
DISTRICT.

2. JATOSH SUDHAKAR, S/O BALYA, VAVILALA VILLAGE,
BOTIMEDHA THANDA, NELLUKUDURU MANDAL,

3. THIRUPATHI MOHAN, S/O SALMON, DRIVER,
BHARATHNAGAR, UPPAL, RANGA REDDY DISTRICT,
PERMANENT ADDRESS: BHESTHAVARIPETA (V), NEAR
KAMBHAM, BESTHAVARIPETA MANDAL,

4. YASA BHARATH REDDY, S/O PADMA REDDY, R/O UPPAL,
RANGA REDDY DISTRICT.

5. JERRIPOTHULA PRABHAKAR, S/O NARASINGA RAO, HARIKA
COMMUNICATIONS, UPPAL, RANGA REDDY DISTRICT.

6. GUDIDEVUNI SASI KANTH GOWD SASI, S/O SRISAILAM
GOWD, NEAR UPPAL BUS DEPOT, KENDRANAGAR, RANGA
REDDY DISTRICT.

...RESPONENT(S):

Appeal under Section 372/374(2)/378(4) of Cr.P.C praying that the High Court may be pleased to present this Memorandum of Crl.A., aggrieved by the Judgment in N.D.P.S.SC.No. 14 of 2008, dt. 08-12-2008 on the file of the Court of the Spl.Sessions Judge for trial of the cases under the Narcotic Drugs and Psychotropic Substances Act, 1985 -cum- 1 Addl. Sessions Judge), East Godavari District, Rajahmundry.

IA NO: 1 OF 2009(CRLAMP 7 OF 2009)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to release the vehicle bearing No.AP 04 K 3141 (Tatasumo) the appeal.

Counsel for the Appellant:

1.NUTHALAPATI KRISHNA MURTHY

Counsel for the Respondent(S):

1.PUBLIC PROSECUTOR

The Court made the following:

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

CRL.A.No.7 of 2009**Between:**

Neerudi Dhanamma, W/o. kumar,
Hindu, Aged 33 years, Vegetable Business,
R/o. H. No. 5-143/1, Bharathnagar,
Uppal, Ranga Reddy District. APPELLANT/ACCUSED

A N D

The State of Andhra Pradesh,
rep. by its Public Prosecutor,
High Court of Andhra Pradesh,
Hyderabad, and others. RESPONDENTS

DATE OF ORAL JUDGMENT PRONOUNCED : 29.04.2026

SUBMITTED FOR APPROVAL:**THE HON'BLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI**

1. Whether Reporters of Local Newspapers
may be allowed to see the Judgment? Yes/No
2. Whether the copy of Judgment may be
marked to Law Reporters/Journals? Yes/No
3. Whether His Lordship wish to see the
fair copy of the Judgment? Yes/No

JUSTICE B.V.L.N.CHAKRAVARTHI

*** HON'BLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI**

+ CRL.A.No.7 of 2009

% 29.04.2026

Between:

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R/o. H. No. 5-143/1, Bharathnagar,

Uppal, Ranga Reddy District.

..... APPELLANT/ACCUSED

A N D

The State of Andhra Pradesh,

rep. by its Public Prosecutor,

High Court of Andhra Pradesh,

Hyderabad, and others.

..... RESPONDENTS

! Counsel for the Appellant : Sri Nuthalapati Krishna Murthy

^ Counsel for the Respondent : Sri C.P.Somayaji,
Addl. Public Prosecutor and
Sri A. Sai Rohit,
Asst. Public Prosecutor

< Gist:

> Head Note:

? Cases referred:

The Court made the following:

THE HONOURABLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI**CRIMINAL APPEAL No.7 OF 2009****ORAL JUDGMENT:**

Heard Sri Mohammed Sayeed Uddin, learned counsel representing Sri Nuthalapati Krishna Murthy, learned counsel for the appellant, and Sri C.P. Somayaji, learned Additional Public Prosecutor, along with Sri A. Sai Rohit, learned Assistant Public Prosecutor, representing the respondent–State.

2. The present Criminal Appeal is preferred by the appellant, owner of the vehicle, i.e., Tata Sumo bearing Registration No. AP 04 K 3141 (hereinafter referred to as “the disputed vehicle”), which was confiscated, on the ground that it was used for transportation of narcotic substances seized in the case, *vide* judgment dated 08.12.2008 passed in NDPS S.C.No.14 of 2008 on the file of learned Special Sessions Judge for Trial of Cases under the Narcotic Drugs and Psychotropic Substances Act, 1985 – cum – I Additional Sessions Judge, East Godavari District, Rajahmundry.

3. The learned counsel for the appellant would submit that Section 60(3) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “the NDPS Act”) reads as follows:

“60. Liability of illicit drugs, substances, plants, articles and conveyances to confiscation:

60.(3). *Any animal or conveyance used in transporting any narcotic drug or psychotropic substance, [or controlled substances] or any article liable to confiscation under sub-section (1) or sub-section (2) shall be liable to confiscation, unless the owner of the animal or conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person-in-charge of the animal or conveyance and that each of them had taken all reasonable precautions against such use.”*

4. He would further submit that Section 63 of the NDPS Act prescribes as follows:

“63. Procedure in making confiscations:

(1) *In the trial of offences under this Act, whether the accused is convicted or acquitted or discharged, the court shall decide whether any article or thing seized under this Act is liable to confiscation under Section 60 or Section 61, or Section 62 and, if it decides that the article is so liable, it may order confiscation accordingly.*

(2) *Where any article or thing seized under this Act appears to be liable to confiscation under Section 60 or Section 61 or Section 62, but the person who committed the offence in connection therewith is not known or cannot be found, the court may inquire into and decide such liability, and may order confiscation accordingly:*

Provided that no order or confiscation of an article or thing shall be made until the expiry of one month from the date of seizure, or without hearing any person who may claim any right thereto and the evidence, if any, which he produces in respect of his claim:

Provided further that if any such article or thing, other than a narcotic drug, psychotropic substance, [controlled substance] the opium poppy, coca plant or cannabis plant is liable to speedy and natural decay, or if the court is of opinion that its sale would be for the benefit of its owner, it may at any time direct it to be sold; and the provisions of this sub-section shall, as nearly as may be practicable, apply to the net proceeds of the sale.”

5. In the present case, it is contended that the disputed vehicle was used without knowledge of the appellant, and that she had no connivance with the accused in transporting the narcotic substances. However, the learned Special Court did not issue any notice to the appellant, nor provide any opportunity to adduce evidence to establish her lack of knowledge or involvement. Therefore, the order of confiscation is not in accordance with Sections 60 and 63 of the NDPS Act.

6. He would submit that the appeal is maintainable against such an order of confiscation by the owner of the conveyance, in the light of Section 36-C of the NDPS Act, which reads as follows:

“36-C. Application of Code to proceedings before a Special Court-Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), (including the provisions as to bail and bonds) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting a prosecution before a ‘Special Court’ shall be deemed to be a Public Prosecutor.”

7. In light of the said provisions, this Criminal Appeal is maintainable, as Section 452 Cr.P.C. enable the Court to pass orders of confiscation and also provide for an appeal challenging an order passed under Section 452 Cr.P.C.

8. On the other hand, the learned Additional Public Prosecutor submits that the prosecution case is that the disputed vehicle was used for transporting narcotic substances, and therefore, upon conviction of the accused, the learned Special Court passed the impugned order, confiscating the disputed vehicle. However, he fairly submits that a reading of the judgment does not disclose that the procedure contemplated under Sections 60 and 63 of the NDPS Act was followed, while passing the impugned order.

9. In light of the above submissions, the point that arises for consideration is:

“Whether the order of the learned Special Court confiscating the disputed vehicle, i.e., Tata Sumo bearing Registration No. AP 04 K 3141, is sustainable in law?”

10. **P O I N T** : The learned Special Court, by judgment dated 08.12.2008, ordered confiscation of the disputed vehicle, on the ground that it was used for transporting narcotic substances, while convicting the accused. However, a reading of the said judgment does not disclose that

the learned Special Court followed the procedure contemplated under Sections 60 and 63 of the NDPS Act. The impugned order merely states that M.O.8 – Tata Sumo bearing Registration No. AP 04 K 3141 – used for transportation of narcotic substances, is ordered to be sold, and the sale proceeds confiscated to the State, after expiry of the appeal period.

11. Therefore, the impugned order indicates that the learned Special Court did not follow any procedure before passing the said order, particularly the procedure prescribed and contemplated under law, i.e., Sections 60 and 63 of the NDPS Act. Therefore, the order of confiscation of M.O.8 – Tata Sumo bearing Registration No. AP 04 K 3141 - is not sustainable in law and is liable to be set aside. Accordingly, the point is answered.

12. In the result, the Criminal Appeal is allowed. The order of confiscation of M.O.8 – Tata Sumo bearing Registration No. AP 04 K 3141 - passed by the learned Special Sessions Judge for Trial of Cases under the Narcotic Drugs and Psychotropic Substances Act, 1985 – cum – I Additional Sessions Judge, East Godavari District, Rajahmundry, in NDPS S.C.No.14 of 2008, is set aside.

13. The matter is remitted to the learned Special Court to consider the issue afresh, by following the procedure contemplated under Sections 60 and 63 of the NDPS Act, after affording an opportunity to the appellant and the respondent-State, and to pass orders in accordance with law.

14. Since the matter pertains to the year 2008, the learned Special Court is directed to dispose of the same as expeditiously as possible, preferably within a period of three (03) months, from the date of receipt of a copy of this order. This judgment be certified to the trial Court, as per section 405 of Cr.P.C.

As a sequel, Interlocutory Applications pending, if any, shall stand closed.

JUSTICE B.V.L.N. CHAKRAVARTHI

29th April, 2026
cbn

***Note: L.R. Copy is to be marked
B/o.
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93

THE HONOURABLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI

CRIMINAL APPEAL No.7 of 2009

29th April, 2026

cbn

***Note: Mark L.R. Copy
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