

## STATE OF ANDHRA PRADESH

v.

B S.R. RANGADAMAPPA

October 1, 1982

[O. CHINNAPPA REDDY, E.S. VENKATARAMIAH, JJ.]

C *Interpretation—Statute prescribed minimum sentence—No discretion given to court—Court, if can reduce the sentence to less than the minimum prescribed.*

Where the statute prescribes minimum sentence and does not provide for any exceptions or vest the Court with any discretion to award a sentence below the prescribed minimum under any special circumstances, a Court cannot reduce the sentence to less than the minimum permissible. [497 D-E]

D **CRIMINAL APPELLATE JURISDICTION : Special Leave Petition (Criminal) No. 432 of 1981.**E 

From the Judgment and Order dated the 25th September, 1980 of the High Court of Andhra Pradesh at Hyderabad in Criminal Revision Case No. 461 of 1980.

*P. Ram Reddy and G.N. Rao for the Petitioner.*

The Order of the Court was delivered by

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CHINNAPPA REDDY, J. The respondent was charged with an offence under Section 34 (a) of the Andhra Pradesh Excise Act on the allegation that he was found in possession of a quantity of eight litres of illicitly distilled arrack, an intoxicant, in contravention of the provisions of the Act and the Rules made under the Act. The learned Judicial First Class Magistrate convicted him and sentenced him to suffer rigorous imprisonment for a period of two years, which was the minimum sentence that could be awarded for an offence under Section 34 (a) of the A.P. Excise Act. On an appeal preferred by the respondent, the Sessions Judge, Anantapur confirmed the conviction and sentence. The respondent preferred a revision petition before the High Court. The learned Single Judge who heard the revision confirmed the conviction. But, on the question of sentence, he observed :

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"Mr. T. Ramulu, appearing for the petitioner who has filed this revision through jail, has submitted that the petitioner is aged 30 years and is a first offender and he has already served a sentence of about 10 months and that the sentence may be appropriately modified. It is true that under the A.P. Excise Act, a statutory minimum sentence is prescribed. But having regard to the submissions made above, I feel the interest of justice will be satisfied if the sentence of imprisonment imposed against the petitioner is reduced to the period already undergone and if the fine of Rs. 50/-, imposed is set aside. The revision is dismissed subject to the modification as stated above."

We are unable to understand why the High Court reduced the sentence. The statute prescribes a minimum sentence. It does not provide for any exceptions and does not vest the Court with any discretion to award a sentence below the prescribed minimum under any special circumstances. The learned judge has himself noticed that the sentence imposed is the statutory minimum. Having noticed that the statute prescribes a minimum sentence for the offence, the High Court has ununderstandably reduced the sentence of imprisonment to less than the minimum permissible. The High Court was clearly in error in doing so. We think we have said enough to correct the error. It is unnecessary to pursue the matter further by granting special leave. The petition is dismissed with the above observations.

P.B.R.

*Petition dismissed.*