



2025:AHC:163729

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 1103 of 1988

Ved Prakash

.....Appellant(s)

Versus

State

.....Respondent(s)

Counsel for Appellant(s)	:	Keshav Sahai, Bhavya Sahai, Brijesh Sahai, Varinder Singh, Virendra Kumar Pandey
Counsel for Respondent(s)	:	A.G.A.

Court No. - 75

HON'BLE VIKAS BUDHWAR, J.

1. Heard Shri Rahul Sharma, advocate holding brief of Shri Bhavya Sahai, learned counsel for the appellant and Shri S.K. Singh, learned AGA for the State.

2. Challenge in this appeal to the judgment and order dated 02.05.1988 passed by the Special Judge, Rampur in Speical Case No. 16 of 1985 convicting the appellant under Section 3/7 of the Essential Commodities Act and sentencing him to undergo 3 years R.I., and a fine of Rs. 1000/- and in default of payment of fine to undergo one month R.I.

3. The case of the prosecution in brief is that on 12.06.1983 at 2.00 in the evening, one Dharamveer Singh, Marketing Inspector, Shri Padam Singh, Pargana Magistrate, Vilaspur along with other members of the team conducted a random/ protein inspection in the premises M/s. Ganesh Rice Mill, Vilaspur in which the appellant herein is alleged to be a partner. During the inspection, the appellant herein was asked to come and the *Godown* was sealed and a notice came to be issued to the appellant to submit his reply within a period of 24 hours. However on 14.06.1983 till 3.00 in the evening, no reply was received, thus, it was presumed that the appellant did not possess any licence and on the said date, Shri Dharamveer Singh along with witnesses again reached the *godown* and called for the keys from Raj Kumar who happened to be the clerk and when the *godown* was opened, it was disclosed that there was 622 sacks of wheat, weight whereof being 622 quintals was illegally stocked there, possession of the wheat was given to

Rammohan Agrawal and three samples were drawn, recovery proceedings were made. A first information report came to be lodged, sanction was accorded by District Magistrate, the post conduction of the investigation, a chargesheet came to be submitted against the appellant. The appellant claimed to be tried being non-guilty and came up with the stand that he is agriculturist (*Kashtkari*) and his brother, Ishwar Chandra, Aunt Geeta Devi, brother Raghuveer Saran, mother Saraswati Devi used to sow wheat in their agriculture field and they were kept in their house and it was their agricultural production and they possesses 50 acres of land and they do not trade in wheat and at any point of time sealed the said wheat. Post recording of the statements, the court of Special Judge, Rampur in Special Case No. 16 of 1985 proceeded to convict the appellant under Section 3/7 of the Essential Commodities Act while sentencing him to undergo 3 years rigorous imprisonment and a fine of Rs.1000/- and in default of the payment of fine to undergo one month rigorous imprisonment while confiscating the wheat of 622 of quintals.

4. Learned counsel for the appellant has submitted that the entire allegation sought to be levelled which had been made basis of conviction and sentence has no legs to stand for the simple reason that it was the stand of the appellant. The appellant and his family members were agriculturist(*Kashtkari*) who possesses 50 acres of land and 622 quintals of wheat were there in house production and they did not trade with the same, however, the defence so taken by the appellant under Section 313 Cr.P.C. had been brushed aside without giving any weightage and further the entire recovery proceedings is nothing but a fast.

5. Submission is that the agricultural produce in the shape of wheat was stored in their house, however, it has been illegally shown to be deployed as a device for trading. Learned counsel for the appellant further submits that there is no independent witness so as to substantiate recovery and whatever recovery has been made, the same is planted and further the appellant has not committed any offence under Section 3/7 of the Act. Learned counsel for the appellant further submits that the incident relatable to the offence are dated 12.06.1983 and appeal had been preferred in the year 1988 and more than 42 years have passed and the appellant does not possess any criminal antecedents though the conviction be upheld but the sentence be modified

and altered to fine.

6. Learned AGA on the other hand submits that from the perusal of the prosecution case commencing from the first information report as well as the testimony of the witnesses, it has come on record that the appellant has committed the said offence. It is contended that the procedure for recovery have been adhered strictly in accordance with the statute and further the recovery has been made in the presence of the witnesses from the mill in question and further the appellant was trading with the said agricultural produce without having any licence if so required the theory so sought to be propounded that it was their agricultural produce is not substantiated from the record. However, according to him, since the appellant does not possess any criminal record that the sentence be altered and modified to fine.

7. I have heard learned counsel for the parties and gone through the records.

8. The prosecution theory discloses that a first information report stood lodged against the appellant under Section 3/7 of the E.C. Act relating to the fact that on 12.06.1983 when the inspection was conducted in the godown then 622 sacks of wheat was found and notice was issued to specify/clarify the same, nothing was done, thus, the recovery proceeding stood occasioned and samples were also drawn and post obtaining of the sanction from District Magistrate, proceedings stood triggered, followed by recording of the statements of the prosecution witnesses and conviction of the appellant under Section 3/7 of the E.C. Act. Apparently, nothing has been brought on record to dislodge the prosecution theory, particularly, when merely making bold allegations would not absolve the appellant as it appears from the record that the prosecution had taken all due steps which were required under the statute and the case stood up proved of commission of guilt against the appellant.

9. However, looking into the fact that the incident is dated 12.06.1983 more than 42 years have passed and there has been nothing on record to show that the appellant possesses criminal antecedents, thus, the conviction under Section 3/7 of the Act is liable to be upheld with alteration and modification in the conviction for the sentence for imposition of a fine of Rs. 15,000/-.

10. Accordingly, the appeal is **allowed** in part. The conviction of the

appellant under section 3/7 of the E.C.Act is upheld. The sentence of imprisonment of three years and Rs.1000/- fine for the offence 3/7 of the E.C. Act is modified and altered and reduced to period already undergone and fine of Rs. 15,000/-.

11. The fine amount imposed upon the accused-appellant for the aforesaid offence shall be deposited by the appellant within three months from today. In case of default in payment of fine amount within the aforesaid period, the appellant shall serve out the entire sentence awarded to him by the trial court vide impugned judgment and order.

12. Let a copy of the judgment along with trial court record be sent to the Sessions Court, Rampur for compliance.

13. A compliance report be sent to this Court.

14. A copy of the order be provided to the counsel for the appellant as well as learned AGA as per rule.

(Vikas Budhwar,J.)

September 15, 2025

A. Prajapati