

Reserved on-03.07.2025

Delivered on-14.07.2025

Court No. - 82

Case :- CRIMINAL REVISION No. - 4987 of 2023

Revisionist :- Atul Gupta

Opposite Party :- State of U.P.

Counsel for Revisionist :- Kuldeep Kumar,Rajiv Lochan Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Rajiv Lochan Shukla and Sri Kuldeep Kumar, learned counsels for the revisionist and Sri Vijay Kumar, learned AGA for the State.

2. The instant revision U/s 397/401 Cr.P.C. has been preferred to set aside the judgment and order dated 13.07.2023 passed by Additional Session Judge, Court No. 14 /Special Judge (Essential Commodities Act), Bulandshahr in Criminal Appeal No. 56 of 2023 (Atul Gupta Vs. State of U.P.) and order dated 23.03.2023 passed by Collector/District Magistrate, Bulandshahr in Case No. 213 of 2023 (State Vs. Atula Gupta and others) Computerized Case No. D202311170000213, under Section 6A U.P. Essential Commodities Act, 1995 and to release 460.80 quintal rice and amount of Rs. 81,670/-, confiscated vide order dated 23.03.2023, in favour of the revisionist.

Brief facts of the case

3. On 25.12.2022, a FIR was lodged against the revisionist and three others under Section 3/7 Essential Commodities Act and Sections 420, 467, 468, 471 IPC and according to the FIR, when on information a raid was made in the premises of a marriage home then in the room of the marriage home huge quantity of rice was recovered and at spot vehicle no. U.P. 13 BT 0021 and U.P. 13 TC 0109(Tata Pickup) were also recovered and in both the vehicles rice was found in plastic sacks and in the presence of the S.D.M.

concerned and other officials search was made and when it was found that the black-marketing of essential commodity (rice) was being committed then rice was seized, which was total 460.80 quintal and thereafter Rs. 81,670/- were also found from the godown and thereafter recovered rice and money were seized. As per the FIR, alleged recovered rice belonged to government scheme and revisionist and others indulged in black-marketing of rice.

4. It is further mentioned in the FIR that after search and recovery, it was revealed that the alleged recovered rice belonged to Arniya Godown but when inventory of godown was checked then no abnormality was found.

5. After above proceedings, the recovered rice and money were confiscated by the impugned order dated 23.03.2023 passed by D.M. concerned and when revisionist preferred an appeal against the same before the Session Judge, then his appeal was dismissed. Hence the instant revision.

Submission on behalf of revisionist

6. Learned counsels for the revisionist submitted that entire allegations made against the revisionist are totally false and he is having license of wholesale and retail of rice, wheat etc. and he never indulged in any black-marketing and recovered rice belonged to him and the same did not belong to any government scheme but in spite of that his rice and money have been confiscated and appeal filed by him has also been dismissed and, therefore, both the impugned orders are illegal.

7. They further submitted that the alleged rice was duly purchased by revisionist and receipts of the same have been annexed along with the affidavit filed in support of the instant revision but in spite of that, confiscation order was passed and his appeal has also been dismissed.

8. They further submitted that however, there is allegation that revisionist was doing black-marketing of alleged recovered rice but even from the FIR of the present case, it reflects, when it was found that the alleged recovered rice belonged to Arniya Godown then the godown was checked but no abnormality was found and this fact clearly suggests that revisionist did not violate any control order made under Section 3 of Essential Commodities Act (in short E.C. Act),

therefore, both the impugned orders dated 23.03.2023 passed by the D.M. concerned and 13.07.2023 passed by learned appellate court are illegal and are liable to be set aside.

9. They further submitted that for confiscation of essential commodity under Section 6A E.C. Act, it is necessary that there must be violation of control order made under Section 3 of E.C. Act. They further submits, even during investigation, it could not be found that alleged recovered rice was of any government scheme. They further submitted that both the courts below failed to consider this fact and thus committed gross illegality.

10. They further submitted that undisputedly recovered Rs. 81,670/- also belonged to revisionist.

11. They further submitted that, therefore, both the impugned orders are illegal and are liable to be set aside and recovered rice and money should be released in favour of revisionist.

Submission on behalf of State

12. Per contra, learned AGA vehemently opposed the prayer for revisionist and submitted that the alleged confiscated rice belonged to government scheme and revisionist violated the control order made under Section 3 E.C. Act and he earned Rs. 81,670/- after selling the same and the alleged recovered rice and Rs. 81,670/- were rightly confiscated by the D.M. concerned and there is no illegality in both the orders passed by the D.M. concerned and appellate authority.

13. Learned AGA however, could not dispute, even as per FIR, the alleged rice belonged to Arniya Godown and after physical verification of godown no anomaly was found in the stock register of rice. He also could not dispute, there is no evidence on record, which can show, revisionist violated any control order.

14. Learned AGA further could not dispute the fact that recovered amount of Rs. 81,670/- also belonged to revisionist.

Conclusion

15. I have heard both the parties and perused the record of the case.

16. As per allegation, from the possession of the revisionist huge quantity of government rice and Rs. 81,670/-were recovered and he indulged in black-marketing and, therefore, he acted in contravention of the provisions of E.C. Act and when application was moved by the authority concerned for confiscation of recovered rice (460.8 quintal) and Rs. 81,670/- then D.M. concerned vide order dated 23.03.2023 confiscated these items and thereafter when revisionist preferred an appeal before the competent authority against the order dated 23.03.2023 then Special Judge (E.C. Act), Bulandshahr, vide order dated 13.07.2023, dismissed his appeal.

17. However, as per allegation, revisionist violated the control order and recovered rice belonged to government scheme but there is no evidence on record, which can suggest that recovered rice belonged to government scheme.

18. From the FIR, it reflects, the alleged recovered rice belonged to Arniya Godown but when the said godown was checked then its inventories were found correct and even during investigation, it could not be revealed, whether alleged recovered rice belonged to any government scheme, therefore, it cannot be said that revisionist violated any government order. The Apex Court in case of ***Kailash Prasad Yadav and another Vs. State of Jharkhand and another AIR 2007 SC 2626***, observed that if there is no violation of any control order made under Section 3 E.C. Act then no confiscation can be done.

19. From the record, it reflects, the above legal issue has not been touched either by the D.M., Bulandshahr while passing the impugned order dated 23.03.2023, by which he passed the confiscation order or by appellate authority while passing the impugned order dated 13.07.2023.

20. Further, admittedly recovered Rs. 81,670/- belonged to revisionist.

21. As there is no evidence that revisionist violated any control order made under Section 3 E.C. Act, therefore, it cannot be said that revisionist violated any order made under Section 3 E.C. Act, therefore, both the impugned orders dated 23.03.2023 and 13.07.2023 are illegal and are hereby set aside.

22. For release of rice and Rs. 81,670/- revisionist may file release application before competent authority.

23. Accordingly, the instant revision stands partly **allowed**.

Order Date :- 14.7.2025

KK Patel