



2026:AHC:204640

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 1566 of 1985

Jagmohan

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Anoop Ghosh, Avadh Pratap Singh Shishodia, Rajeev Chaddha
Counsel for Respondent(s)	: A.G.A.

Court No. - 90

HON'BLE ABDUL SHAHID, J.

1. Heard Sri Mahi Pal Singh, learned Amicus Curiae for the appellant no. 1(Jagmohan).
2. The appellant no. 2 (Bijendra Singh) has already died and the proceedings against him is already dismissed as abated on 06.12.2018.
3. This criminal appeal has been preferred against the judgment and order dated 31.05.1985 passed learned Special Judge (Economic Offences) Ghaziabad, in Summary Trial No. 10 of 1984 (State Versus Jagmohan and another).
4. Learned counsel for the appellant has submitted that the learned trial court has relied on **1979 A.W.C. 577, Abdul Sattar v. State** and argued that the presumption under clause 3(2) of U.P. Foodgrains Dealers (Licensing and Restriction on Hoarding) Order, 1976 was not available to the prosecution and the word 'store' was not synonymous with the word 'transport'. He has further submitted that the aforesaid decision was based on the provisions of clause 3(2) before its amendment. In 1981 A.W.R. 139, Chotey Lal Sahu v. State of U.P., Allahabad High Court considered the effect of notification dated 27.08.1968 and distinguished the earlier views on that ground. It was held that the provisions of clause 3(2) would apply to a person who was found hoarding more than 10 quintals of food grain. The decision in **Abdul Sattar** (supra) is based on U.P. Foodgrains Dealers (Licensing and Restriction on Hoarding) Order, 1964. That order is now replaced on the statute book by the U.P. Foodgrains Dealers (Licensing and Restriction on Hoarding) Order, 1976. The wordings of sub-clause 3(2) are also amended.

He has further submitted that the learned trial court has held that as regards the meaning of the word 'store' given in the case of **Abdul Sattar** (supra), it can be said that the decision was given in the light of the particular facts of that case. In the present case, it has been held in paras 9 and 10 of this judgment that the wheat did not belong to Maharban. Thus in the light of the evidence in the present case, there was no consignor of the wheat as such it is reasonable to presume that the wheat either belonged to the accused or they procured it for sale in Delhi area which was nearby. The aforesaid precedent would have been applicable, if the owner was somebody else and the accused were merely transporting it. It is not uncommon to purchase wheat in a village loaded it in conveyance and sell it at a desired place without storing it in a godown. In my opinion, storing the wheat in a conveyance like a trolley or truck is storing within the meaning of the word as given in sub-clause 3(2) of the said Order and the special circumstances of the case. Even the storing in an open place in some circumstances may come within the mischief of the above provisions. Whereas, 40 quintals of wheat were found on the tractor trolley and when it was asked from Jagmohan about the papers of the said wheat then he has stated that he is a farmer. The 40 quintals of wheat was not found in any godown or any place of the storage which can be considered as violation of the aforesaid Order, 1976.

5. P.W.-1 (Rajendra Singh), is head constable who had verified the check F.I.R. P.W.-2 (Charan Singh Kamdar) is Area Food Controller at Muradnagar, he has specifically stated in his cross examination that the informer Bharat Bhushan when given the information no information was given before myself. I had not seen him. He stated that he does not know what is the distance of the place of incident to Delhi. Muradnagar is approximately 3 furlongs from there. There was no independent witness either found or tried to be found by the prosecution.

6. P.W.-3, D.N. Verma, S.I. of Kotwali Saharanpur, has specifically stated in his cross examination that the place of the incident is approximately 20 kilometers from Delhi, whereas, the Muradnagar Mandi is approximately 1-2 kilometer from the place of incident.

7. Bharat Bhushan deposed as P.W.-4. He stated that he did not produce any documentation at the scene of the incident, which creates grave doubt regarding the prosecution's narrative. He further stated that, as per

Government Orders, transporting wheat to Delhi was prohibited; however, he admitted that he did not possess any such order. He unilaterally presumed the accused to be dealers, despite admitting that he was aware of Nekpur, where Muradnagar Mandi is established. The place of the incident is in close proximity to Muradnagar Mandi and far removed from Delhi.

8. The wheat was being transported on a tractor-trolley, making it highly probable that it was en route to Muradnagar Mandi for sale. Jagmohan stated that he was transporting the wheat from Nekpur to Muradnagar. He explained that he had gone to Maharban's agricultural field, where Maharban provided the wheat to be taken to Muradnagar Mandi. It was agreed that after selling the said wheat we will provide the money to Maharban. Meanwhile, the inspector had arrested at Chungi and falsely detained us.

9. In his statement under Section 313 Cr.P.C., Jagmohan specifically stated that they were not going to Delhi. He clarified that the wheat belonged to Maharban, a resident of Nekpur, and that they were transporting it to Muradnagar to deliver to Mukut Lal, *adhathi*. The co-accused, Bijendra Singh, also stated that they were taking the wheat to Muradnagar Mandi.

10. D.W.-1 (Maharban) specifically stated that he had brought the tractor belonging to Richchpal, who is Jagmohan's father. He stated that he had handed over the wheat to be delivered to Mukut *Adhati* at Muradnagar, and further clarified that he is also known as Muskeem.

11. In view of these facts and circumstances, the 40 quintals of wheat were not found in any godown or covered premises. The owner of the wheat specifically confirmed his ownership, stating that he loaded the wheat onto the tractor-trolley, entrusted it to the appellant for delivery to Mukut *Adhati* at Muradnagar Mandi, and directed that the money will be handed over to him upon sale.

12. The learned trial court has given the perverse finding that storing of the wheat in a conveyance like a trolley or truck is storing within the meaning of the word as given in sub-clause 3(2) of the Order, 1976.

13. In view of all the facts, reasons and appreciation of the evidences, the judgment and order dated 31.05.1985 passed by the Special Judge (Economic Offences) Ghaziabad, in Summary Trial No. 10 of 1984 (State Versus Jagmohan and another), is liable to be set aside. The appellant is entitled to be acquitted of all the charges.

14. The impugned order dated 31.05.1985 as mentioned herein above, is hereby set aside. The sole living appellant (Jagmohan) is hereby acquitted of all the charges.

15. The criminal appeal is allowed.

16. The appellant is on bail and need not surrender. His bail bonds and sureties are hereby cancelled, and his sureties are discharged.

17. A copy of this order along with the trial court record shall be sent to the concerned court immediately for necessary compliance.

18. Sri Mahi Pal Singh, learned Amicus Curiae, shall be paid Rs. 10,000/- for the assistance of the Court.

September 29, 2026
K.K. Maurya

(Abdul Shahid,J.)