



2026:AHC:53786

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 648 of 1988

Ramesh Chandra Gupta

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Pradep Kumar, Rajeev Mishra, Vineet Sankalp
Counsel for Respondent(s)	: A.G.A.

Court No. - 93

HON'BLE MRS. VANI RANJAN AGRAWAL, J.

1. This appeal has been preferred against the judgment and order dated 07.03.1988, passed by Special Judge (E.C. Act), Jalaun at Orai in Criminal Case No.19 of 1986, whereby the trial court has convicted the appellant under Section 3/7 of the Essential Commodities Act and sentenced him to undergo two years rigorous imprisonment.
2. Heard learned counsel for the appellant and learned A.G.A. for the State.
3. The prosecution case, in brief, is that the accused/appellant, Ramesh Chand Gupta, was a fair price shop dealer. On 09.11.1985 at about 10.00 A.M., he was apprehended by complainant Deepak Kumar, Ram Naresh, Lalji Kumar and Hemant Kumar while carrying two bags of sugar on a Theliya at Hydle Chauraha, situated in town Jalaun for the purpose of selling the sugar in black market. The Theliya was being driven by one Rahmatullah.
4. The matter was reported to SDM, Jalaun. On 09.11.1985 the same day Supply Inspector Bhagwan Das lodged an FIR of the occurrence at Police Station- Jalaun. The SDM, Jalaun directed the Tehslidar, Jalaun to enquire into the matter. The Tehsildar, Jalaun reached the shop at about 11.00 A.M., which was found closed. The shop was sealed in presence of independent witnesses. Tehsildar, Jalaun passed an order to proceed against the accused according to law. The recovered sugar was given in supurdagi of Nayab Tehsildar Samadhiya.
5. During investigation of the case, it was found that accused Ramesh Chand Gupta had contravened the provisions of U.P. Sugar Control Order, 1962 and conditions of sugar license which is punishable under Section 3/7 of

E.C. Act.

6. After investigation, charge-sheet was submitted. The accused Ramesh Chand Gupta was charged under Section 3/7 of E.C. Act for being found in illegal possession of 90 kg of sugar, which was carried out by him for sale in black market. It was also alleged that the accused had made false entries in sale register of sugar, without distributing sugar to ration card holders and thereby contravened the provisions of U.P. Foodgrains and Other Essential Articles Distribution Orders, 1977. Charges were read over to the accused. He denied the charges and claimed to be tried.

7. The prosecution has examined as many as 4 witnesses. P.W.-1 Rahmatullah, P.W.-2 Hemant Kumar, P.W.-3 Bhagwan Das and P.W.-4 Harish Chand Singh, which are referred hereinafter :-

P.W.1- Rahmatullah has stated that two years earlier he lifted two gunny bags of sugar(90 kgs) from the Government fair shop belonging to the accused which was apprehended by two three boys near Hydle Chauraha in morning which the accused had given him to carry to Sewaram Bilaiya.

P.W.2- Hemant Kumar stated that about two years nine months earlier at 10 am morning he along with Dipak Kumar and others saw a Thilliyapuller with two bags of sugar accompanied by the accused Ramesh Chand and when they asked about the destination the accused denied to disclose the place. Subsequently they informed S.D.M Jalan who undertook the custody of sugar. The witness proved the joint complaint as **Ext. k-1**.

P.W.3- Bhagwan Das was posted as Supply Inspector and stated that Tahsildar Jalaun reached the shop at 11 am and sealed it. He has proved his tehrir as **Ext. ka-2**.

P.W. 4- Harish Chand Singh S.I and I.O stated that prior to him the matter was being investigated by S.I. Kuril and on his transfer he was given the case. He has proved the stock register and sale register as Exts. 1 to 6 and prepared fard as **Ext. ka-1**. With the help of sale register he verified ration cards attached with the shop of the accused and found that in ten ration cards there was no entry of issuing of sugar to ration card holders whereas entries were there in the registers as proved by him in **Ext. Ka-4 and Ext. ka-5**. He has proved sanction accorded by District Magistrate Jalaun to prosecute the accused as **Ext. ka-7**; chargesheet as **Ext. ka-8**, chik FIR as **Ext. ka-9** and copy of G.D as **Ext. ka-10**.

8. Documentary evidence joint complaint Ext. Ka-1, Tehrir Ext. Ka-2, Fards Ext. Ka-4 and Ext. Ka-5, report of Supply Inspector regarding Chhijan Ext.

Ka-6, to prosecute the accused as Ext. Ka-7, charge-sheet Ext. Ka-8, chik FIR Ext. Ka-9 and Carbon Copy of G.D. Ext. Ka-10. Stock register Ext. 1 to 6 and Ext. 1 to 6 are available on record.

9. The accused was examined under Section 313 Cr.P.C. He denied all the allegations against him and filed certified copy of report of Tehsildar in defence.

10. After hearing both the parties and considering oral and documentary evidences on record, the learned trial court returned the finding of guilt and convicted the accused for offence under Section 3/7 of E.C. Act and sentenced him to undergo two years of rigorous imprisonment.

11. Aggrieved with the impugned judgment and order of conviction and sentence, this appeal has been preferred.

12. It is submitted that the conviction of the appellant is against the weight of evidence on record and the sentence awarded to him is too severe. The appeal has remained pending before the Court for considerable long period and has now come up for final hearing.

13. At the time of arguments, learned counsel appearing on behalf of the appellant has not seriously assailed the findings of conviction recorded by the trial court, however, it has been submitted that the incident in question is very old and the appellant has already undergone incarceration for about 28 days.

14. During the course of proceedings, it has further been submitted that the appeal has remained pending for about four decades and the appellant has faced agony of protracted litigation for a long period. It is, therefore, prayed that while maintaining the conviction, the sentence may be modified to the period already undergone and the fine may be enhanced.

15. Learned A.G.A. for the State has opposed the prayer but does not dispute that the matter pertains to an old occurrence and that the appellant has already undergone a short period of incarceration.

16. Having considered the submissions of learned counsel for the parties and having perused the record, this Court finds that the trial court has rightly appreciated the evidence on record and the finding of guilt recorded against the appellant under Section 3/7 of Essential Commodities Act calls for no interference. The conviction is accordingly affirmed.

17. As regards sentence, it is true that Section 7 of the Essential

Commodities Act prescribes a minimum punishment of three months imprisonment but the proviso empowers the court for special and adequate reason to impose a lesser sentence.

18. In the present case, the occurrence is of several decades old, the appeal has remained pending for about 38 years, the appellant has faced the agony of protracted litigation during this long period. There is no material indicating any previous conviction of the appellant. He has already undergone 28 days of incarceration. These mitigating factors contribute special reasons within the meaning of the said proviso. This Court finds it just and proper to reduce the substantive sentence to the period already undergone.

19. Accordingly, while maintaining the conviction, the sentence imposed upon the appellant is modified to the extent of imprisonment for a period of 28 days that is already undergone and with a fine to the tune of Rs.7000/-.

20. The appellant is directed to deposit the amount of fine within 30 days from receiving a certified copy of this judgment. In default, he shall undergo the substantive sentence as directed by the trial court.

21. Accordingly, the appeal is partly allowed with aforesaid modification.

22. Let a copy of this judgment be transmitted to the trial court for necessary compliance.

January 27, 2026
P. Pandey

(Mrs. Vani Ranjan Agrawal,J.)