

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 244 of 2010

Order reserved on : 01-10-2018

Order passed on : 05.12.2018

1. Nohri Chandrakar S/o. Todal Prasad, Aged about 29 years,
2. Tikeshwar Prasad S/o. Sadaram Patel, Aged about 20 years, R/o. Village Chhatouna, P.S. Arang, District Raipur (C.G.)
3. Baharu S/o. Rungu Sahu, Aged about 40 years,
4. Nand Kumar S/o. Dadu Yadav, Aged about 36 years,

Applicant No. 1, 3 and 4 are resident of village Farfoud, Police Station Arang, District Raipur (C.G.)

---- Applicants

Versus

State of Chhattisgarh, Through SHO, P.S. Excise Police Station Raipur District Raipur (C.G.)

---- Respondent

For Applicants : Mr. Ajay Chandra, Advocate
For Respondent : Mr. Gary Mukhopadhyay, Govt. Adv.

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V. Judgment

1. This revision is directed against the judgment dated 14.05.2010 passed by the Second Additional Sessions Judge Raipur in Criminal Appeal No. 29 of 2010, affirming the judgment of conviction and order of sentence dated 12.04.2010 passed by the Chief Judicial Magistrate, Raipur in Criminal Case No.

640/2009, convicting and sentencing the accused/applicants as under:-

Conviction	Sentence
Under Section 34(1)(A) of the Excise Act	SI for 1 year with fine of Rs. 25,000/-
Under Section 34(2) of the Excise Act	SI for 1 year with fine of Rs. 25,000/- with default stipulations with a direction to run the sentence concurrently

2. Facts of the case, in short, are that on 18.09.2009, an information was given by Ex-Up Sarpanch of village Farfound to Excise Sub Inspector, Circle -3, that the accused/applicants are engaged in the business of selling of illicit liquor were nabbed by the villagers along with the illicit liquor. Acting upon an information the Excise Sub Inspector along with his associates reached the spot and on being searched, 144 quarters of Royal Master and 76 quarters of Goa Special Whiskey total 220 quarters (39.6 liters) of liquor were found. After effecting seizure and making arrest of the accused/applicants and thus on completion of investigation charge sheet was laid under Sections 34-(1) (A) and 34(2) of the Excise Act.

3. After examining the material available on record and the evidence of the witnesses the trial Court convicted the accused/applicant under Section 34-(1) (A) and 34(2) of the Excise Act. The findings recorded by the trial Court have subsequently been confirmed by the lower Appellate Court by the judgment impugned and it is that which is under challenge in this revision.

4. Counsel for the accused/applicants submits that both the Courts below have fallen into a serious error in convicting the accused/applicant under Sections 34-(1) (A) and 34(2) of the Excise Act and that the findings so recorded are contrary to the evidence led by the prosecution. He further submits that as the prosecution could not prove its case beyond reasonable doubt, the judgment impugned is liable to be set aside.

5. On the other hand, counsel for the respondent/State supports the judgment impugned and submits that the findings recorded by the both the Courts below convicting the accused/applicant as shown above, are strictly in accordance with law and there is no infirmity in the same.

6. Heard counsel for the parties and perused the evidence on record.

7. On analyzing the case put fourth by the prosecution and weighing the evidence adduced by it, it comes to the fore that on the date of incident acting upon a secret information the Excise Sub Inspector found 144 quarters of Royal Master and 76 quarters of Goa Special Whiskey total 220 quarters (39.6 liters) of liquor were found. The seizure of liquor quantified as above has been duly supported by documents of Ex. P-1. PW-4 – is the witnesses to seizure has duly supported the case of the prosecution. In this view of this matter, the conclusion drawn by both the Courts below slapping conviction on the accused/applicant under sections 34-(1) (A) and 34(2) of the

Excise Act is fully justified being based on due appreciation of the material collected by the prosecution. No infirmity or illegality with the same is visible.

8. In the result, the revision being without any substance is liable to be dismissed and it is dismissed as such with the judgment impugned being affirmed hereby.

9. Revision dismissed.

Sd/-
(Vimla Singh Kapoor)
JUDGE

Jyotishi/Santosh