

HIGH COURT OF CHHATTISGARH, BILASPUR

Judgment reserved on 06.02.2019

Judgment delivered on 04.12.2019

CRR No. 551 of 2002

- Harish Prasad S/o Jokhan Lal Gupta, Aged 50 Years, R/o Village Patora P.S. Dhaurpur, Tahsil Lundra, Distt-Surguja (CG) ---- **Applicant**

Versus

- State Of Chhattisgarh through Collector (Food Section) Ambikapur, District Surguja (CG) ---- **Respondent**

WITH

CRA No. 1135 of 2002

- Harish Prasad S/o Jokhan Lal Gupta, Aged 56 Years, R/o Village Patora P.S. Dhaurpur, Distt-Surguja (CG) ---- **Appellant**

Versus

- State Of Chhattisgarh, through P.S. Dhaurpur, District Surguja (CG) ---- **Respondent**

For Appellant/s	-	Shri Manoj Mishra, Advocate
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For Respondent/s	-	Mr. A. N. Bhakta, Dy. GA with Mr. Aman Kesharwani, PL
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Hon'ble (Smt.) Justice Vimla Singh Kapoor

CAV Judgment

As the aforesaid appeal and the revision relate to the same incident dated 30.12.1997 between the same parties, they are being disposed of by this common order.

2. Facts necessary for disposal of these two cases in brief are that on 30.12.1997 on the basis of complaint received from Shivilal Gupta (PW-3), Food Inspector, Ambikapur raided the house of the accused and found 196 quintals of mustard seeds and 11.20 quintals of Ramtilla seeds stashed in his house in contravention of

Section 3(1) of Madhya Pradesh Anusuchit Vastu Vyapari (Anugyapan Tatha Jamakhori per Nirbandhan) Adesh 1991. Seizure of the same was made under Ex.P-2. After preparing the report to this effect, the Food Inspector forwarded the same to Collector, Ambikapur for necessary action. Subsequently, on the basis of letter (Ex.P-10) written by the Food Inspector to the concerned Station House Officer, FIR (Ex.P-11) was registered against the accused for an offence under Section 3/7 of the Essential Commodities Act. At the same time, on the report submitted by the Food Inspector on 31.12.1997 the Collector took cognizance of the matter and found that the accused had stocked the mustard and Ramitlla seeds quantified above, in contravention of the Section 3(1) of Madhya Pradesh Anusuchit Vastu Vyapari (Anugyapan Tatha Jamakhori per Nirbandhan) Adesh 1991 and by order dated 31.07.2000 directed for confiscation of its sale proceeds amounting to Rs.1,46,160/-. The said order of the Collector was assailed before the Sessions Judge, Surguja by way of Criminal Appeal No. 99/2000 who vide order dated 16.10.2002 found the same to be just and proper and maintained the same by dismissing the appeal. Similarly, in the parallel proceedings initiated on the basis of FIR, investigation was made, charge was framed and after conclusion of the trial, learned Special Judge also found the charge proved and thus convicted the accused under Section 3/7 of the Essential Commodities Act and sentenced him to undergo RI for one year and pay of Rs.2000, plus default stipulation.

3. Counsel for the accused submits that the orders impugned in the aforesaid appeal and the revision are illegal and contrary to the

material on record as the prosecution has utterly failed to prove that there was any violation of Section 3 (1) of Madhya Pradesh Anusuchit Vastu Vyapari (Anugyapan Tatha Jamakhori per Nirbandhan) Adesh 1991. He further submits that though the accused tried to explain that the mustard and Ramtilla seeds in question were the produces of his own field which he has kept in stock on account of the fact that at the relevant time the proper price was not available in the market but the Collector, the Session Judge as also the Special Judge have not considered the same. Even the *mens rea* on the part of the accused has not been established by the prosecution for keeping in his house the aforesaid seeds.

4. On the other hand, State counsel supports the judgments impugned and submit that the findings recorded in the judgments under challenge are strictly in accordance with law and there is no infirmity in the same.

5. Heard counsel for the parties and perused the documents on record.

6. Though the accused has taken a defence that the seeds in question were the produces of his own agricultural field and that he was having considerable land and had stocked those seeds on account of non availability of adequate price at the relevant time, from the statement of Shivilal Gupta (PW-3) it becomes apparent that the accused was dealing in the food items and for that purpose such huge stock was found in his house. Further, vide Panchnama (Ex.P-4) the weighing instrument was found in the

house of the accused which also goes to show that the accused was dealing the food grains and the huge quantity of mustard and Ramtilla seeds cannot be said to be of his agricultural land. Panchnama (Ex.P-4) has also been proved by Bholu Prasad, Shiv Prasad and Krishna Kumar who were present there at the relevant time. Though the accused claims to be the owner of considerable land, the huge quantity of mustard and Ramtilla seeds do not appear to be in right proportion thereof to satisfactorily convince this Court. The accused has also failed to explain as to how many crops he was taking from his land in a year nor any details have been given thereof.

7. Thus there is clear evidence that the accused had stashed the huge quantity of mustard and Ramitlla seeds mentioned in contravention of Section 3(1) of Madhya Pradesh Anusuchit Vastu Vyapari (Anugyapan Tatha Jamakhori per Nirbandhan) Adesh 1991 and being so his conviction under Section 3/7 of the Essential Commodities Act is just and proper and it is hereby maintained.

8. As regards sentence, keeping in mind the fact that the incident is of the year 1997 and thereby more than 22 years have gone by and further that he has already remained inside for about one month and 7 days, this Court does not think it proper to again disturb his life by sending him to jail. It is accordingly reduced to the period already undergone.

9. The order of Collector dated 31.07.2000 directing confiscation of the sale proceeds of huge quantity of seized seeds which ultimately stood confirmed vide judgment dated 16.10.2002 does

not require any interference by this Court and the same is hereby maintained by dismissing the revision.

10. In the result, the Criminal Appeal No.1135/2002 is allowed in part whereas the Criminal Revision No.551/2002 being without any substance is hereby dismissed.

Sd/-
(Vimla Singh Kapoor)
Judge

Jyotishi/ajay.