

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 293 of 2010

Anjor Singh, son of Kartik Kurmi, aged about 46 years, R/o Village Hithmudi, P.S. Bemetara, Tahsil Bemetara, District Durg (MP)
(Now CG)

---- Applicant

Versus

The State of MP through PS Bemetara, District Durg (MP)
(Now CG)

--- Respondent

For Applicant : Sudhir Kumar Verma, Advocate

For State/Respondent : Shri Raghvendra Verma, GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

25/04/2019

Allegation against the accused/applicant who was appointed as Dealer of the Government Shop for distribution of food-grains for the people of Gram Panchayat, Kanteli is that he obtained 5 Quintals of sugar for January and February, 1981 each and 6 Quintals for April, 1981 totaling to 16 Quintals for being distributed amongst the villagers of the concerned Gram Panchayat but instead of doing that he sold out the same in the open market. On the complaint made by the villagers under the concerned Gram Panchayat, an offence under Section 3/7 of the Essential Commodities Act was registered against the accused/applicant. After completion of investigation the charge sheet was filed and the challan was framed under the same section.

2. It is worth mentioning that in the statement recorded under Section 313 Cr.P.C. the accused/applicant had admitted that at the relevant time he was the Dealer of the Government Shop and had obtained the aforementioned stock for being distributed.

3. Learned Magistrate vide its order dated 04.05.1983 found the accused/applicant guilty under Section 3/7 of the Essential Commodities

Act and sentenced him to undergo RI for 1 year and pay fine of Rs.5000/-, plus default stipulation. The said order has been affirmed in appeal also vide judgment impugned dated 03.06.1994.

4. Counsel for the accused/applicant submits that the findings recorded by both the Courts below are not in consonance with the evidence adduced by the prosecution. According to him, the evidence adduced by the defence has been completely ignored while holding the accused/applicant guilty. Even the notice was not given by the SDO regarding the breach of any of the conditions of the licence issued to him. State counsel however supports the judgment impugned.

5. In the statement under Section 313 Cr.P.C. there is admission by the accused/applicant himself that at the relevant time he was having the charge of distributing the food-grains to the people, from the Government Shops and had also obtained the quota of sugar for the month of January, February and April, 1981 totaling to 16 Quintals. PW-1 and PW-2 who felt aggrieved by the conduct of the accused/applicant have categorically stated that they have not been provided sugar for the month of January, February and April, 1981. Case of the prosecution also gets corroboration from the statements of PW-3 and PW-6 who have clearly deposed that the accused/applicant did not distribute the sugar for the months of January, February and April, 1981. Though defence witnesses DW-1 and DW-2 have stated that the accused/applicant had distributed sugar 2 years prior thereto yet their evidence does not go to show that the accused/applicant had made the distribution of the sugar for the month of January, February and April, 1981. Thus the act of the accused/applicant who was granted the dealership is in violation of the conditions of licence. The evidence of the witnesses clearly goes to prove the involvement of the accused/applicant for the offence alleged against him. No legal flaw is found in the well reasoned finding of conviction recorded by both the Courts below and being so it is hereby maintained.

6. As regards sentence, taking into consideration the fact that the incident had taken place in the year 1981 and thereby sufficient long period has already elapsed, and also not being ignorant to the fact that the accused/applicant had already been inside for a period of 26 days, this Court thinks it in the interest of justice to reduce the sentence imposed on him to the period for which he had already remained in jail. Order accordingly.

7. Revision thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Ajay