

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 63 of 2001

Reserved on : 28.01.2020

Delivered on : 08.05.2020

Lokesh Agrawal, S/o Satyanarayan Agrawal, aged 32 years,
Occupation Labourer, R/o Banglapara Kotra Road, Raigarh, Thana-
Raigarh, District- Raigarh (C.G.)

---- Appellant

Versus

The State of Chhattisgarh, through the District Magistrate, Raigarh
(C.G.)

---- Respondent

For Appellant : Mr. Rajendra Tripathi, Advocate.

For State/respondent : Mrs. Shubha Shrivastava, P.L.

Hon'ble Shri Justice Ram Prasanna Sharma

CAV JUDGMENT

1. This appeal is preferred under Section 374 (2) of the Code of Criminal Procedure, 1973 against judgment dated 21.12.2000 passed by the court of Special Judge, Raigarh (C.G.) in Special Case No. 05/1997, wherein the said court convicted the appellant for commission of offence under Section 3 read with Section 7(1)(a)(i) of the Essential Commodities Act, 1955 (for short "the Act, 1955) and sentenced to undergo R.I. for 2 years and fine of Rs. 5000/- with further default stipulations.
2. As per version of the prosecution, on the 13.04.1997, the appellant's Grossery Shop and Godown was searched and it

was found by the Food Inspector in presence of Sub-Divisional Officer (Revenue) that the appellant is in possession of 3240 Ltr. of Kerosene Oil and he failed to produce documents/ bills/ invoice of the said Kerosene Oil. The matter was reported, the appellant was charge-sheeted and after completion of trial, the trial court convicted as mentioned above.

3. Learned counsel for the appellant submits as under:-

(i) There is evidence on record to the effect that the Kerosene Oil belongs to Sanjeev Gupta and Rajesh Shukla, therefore, finding against the present appellant is not sustainable.

(ii) The independent witnesses have not supported version of the prosecution, therefore, the trial court ought to have recorded finding of acquittal.

(iii) The trial court has not evaluated the evidence properly, therefore, the finding arrived at by the trial court is liable to be set aside.

4. On the other hand, learned State counsel submits that the finding arrived at by the trial court is based on proper marshaling of evidence and the same does not warrant any interference of this Court with invoking jurisdiction of the appeal.

5. I have heard learned counsel for the parties and perused the record.
6. From evidence of Food Inspector- S.P.S. Chouhan (PW-1) and Project Officer- Than Singh Kumre (PW-11), it is established that the Kerosene Oil to the tune of 3240 Ltr. was found in drums in possession of the appellant and he did not produce any document for possession of the said Kerosene Oil. Version of this witness is unrebutted during cross-examination, therefore, it is established that the appellant was in possession of Kerosene Oil in contravention of the notification as mentioned in the judgment of the trial court. There is nothing on record which go adversely to the prosecution, therefore, arguments advanced on behalf of the appellant is not established.
7. On overall assessment of the evidence, the trial court recorded finding of conviction. After reassessing the entire evidence, this Court has no reason to record contrary finding. The act of the appellant falls within mischief of Section 3 read with Section 7(1)(a)(i) of the Act, 1955 and his conviction is hereby affirmed.
8. The case of the prosecution was filed 20 years ago. No useful purpose will be served in sending the appellant in jail again. Considering the facts and circumstances of the case, this Court is of the opinion that the ends of justice would be met if the appellant is sentenced to the period of till rising of the

court. However, the fine amount imposed by the trial court shall remain intact. Order of disposal of the property by the trial court shall also remain intact.

9. With these modifications, the appeal is partly allowed.

Sd/-
(Ram Prasanna Sharma)
Judge

Arun