

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 28-01-2020

Delivered on 08-05-2020

CRA No. 84 of 2003

- Santosh Rungta s/o. Ghanshyam Das Rungta, aged about 52 years r/o Ganj Para Durg (CG).

---- Appellant

Versus

- State of Chhattisgarh through P.S. Somni, Dist. Rajnandgaon.

---- Respondent

For Appellant : Mr. Akhil Mishra,, Advocate

For respondent : Mrs. Smita Jha, Penal Lawyer
State

Hon'ble Shri Justice Ram Prasanna Sharma

CAV Judgment

1. This appeal is preferred against the judgment dated 23-12-2002 passed by the Special Judge under Essential Commodities Act, 1955 (for short, "the Act, 1955"), Rajnandgaon, CG in Special Case No. 32 of 1997 wherein the said Court has convicted the appellant for the commission of offence under Section 7(2) of the Act, 1955 and sentenced him to undergo RI for three months and to pay fine of Rs.5000/- with default stipulations. The said court further ordered confiscation of paddy which was excess of the stock register shown by the appellant.

2. As per case of the prosecution, in brief, is that on 3-5-1997 a search was made by the authorities of the Food Department in the firm of R.S.R. Rungta Boiling Plant, Devada wherein 80.10 quintal of flour of wheat and 572.31 quintals of wheat were found excess which is not shown in the stock register of the appellant and thereby the aforesaid offence is committed. Thereafter, case of the appellant was registered and investigated and after completion of investigation charge sheet was filed. After completion of trial, the trial Court convicted and sentenced the appellants as aforementioned.

3 Learned counsel for the appellant would submit as under:

- i) On the date of enquiry by the authorities i.e., on 3-5-1997 appellant and other persons were not present and flour of wheat and wheat were seized without ascertaining regarding the person responsible for the activity of the rice mill.
- ii From the evidence of Hanuman Prasad Sharma (PW/4) and other witnesses, it is not established that the appellant has committed any criminal act and
- iii) The trial Court has not evaluated the evidence properly, therefore, finding of the trial court is liable to be set aside.

4 On the other hand, learned counsel for the respondent would submit that the finding of the trial Court is based on proper marshaling of the evidence and the same is not liable to be interfered while invoking the jurisdiction of the appeal.

5. I have heard learned counsel for the parties and perused record of the court below in which impugned judgment is passed.

6. The appellant was charge-sheeted for having excess quantity of flour of wheat and wheat which is not shown in his stock register. From the evidence of Hanuman Prasad Sharma, Food Inspector (PW/4), it is established that flour of wheat and wheat were found in excess in the stock register of the appellant on 3-5-1997 when flour mill of the appellant was searched. Version of this witness is supported by version of Gaurishankar Mishra (PW/7), Manikram Sahu (PW/2), Gayadath Sharma (PW/3) and Jakir Ali (PW/6). Version of these witnesses is unrebutted during cross examination and nothing could be elicited in favour of the appellant. From the entire evidence, there is nothing on record to say that the flour of wheat and wheat were not found in excess what is maintained in the stock register. The trial court after evaluating the entire evidence recorded finding of violation of the Essential Commodities Act, 1955 which is punishable under Section 7(2) of the Act, 1955.

7. After going through the entire record, it is not a case where interference of this court is required with the finding of the trial court. In view of the above, argument advanced on behalf of the appellant is not sustainable. Conviction is affirmed.

8. Heard on the point of sentence.

Madhya Pradesh Scheduled Commodities Dealers (Licensing and Restriction on Hoarding) Order 1991 is repealed vide publication in MP Gazette dated 13-9-2002. Again, by Scheduled Commodities (Licensing Stock Limit) and Operation Restriction Removal Order 2002 says that any of the business man is free to stock of quantity of wheat without limit. In view of the above notification, the act of the stocking is not a criminal act from that date and same is good reason for awarding lesser sentence. In view of the above, jail sentence imposed by the trial court is hereby set aside and the appellant is sentenced to undergo RI for till rising of the court. However, fine amount imposed by the trial court shall remain intact and disposal order of the seized article is also maintained.

9. With the aforesaid modification, the appeal is partly allowed.

Sd/-
(Ram Prasanna Sharma)
Judge

Raju