

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 576 of 2010

Order reserved on 05.02. 2021

Order delivered on 08.03.2021

Panchram Yadaw S/o. Pran Singh Yadaw, Aged about 45 years,
Occupation Agriculture, R/o. Edukala, Thana Chal, District
Raigarh (CG)

---- **Applicant**

Versus

State of Chhattisgarh, Through District Judicial Magistrate,
Raigarh District Raigarh (C.G.)

---- **Respondent**

For Applicant : Mr. Mohit Kumar, Advocate

For Respondent : Mr. Sameer Sharma, Dy. GA

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Order

Case of the prosecution, in brief, is that on 28.04.2008, Inspector G.L. Shrivastava (PW-3) received a secret information from the informant that the applicant has kept illicit liquor in his house. He along with witnesses searched the house of the applicant, total 7 bulk liters of country-made liquor and 25 KG of Mahua pass kept in a pot, as also the instruments used for preparing the same and Rs. 210/- were also seized. Dehati First Information Report (Ex.P-9) was registered under section 54 Cr.PC and thereafter FIR (EX.P-12) was registered against the applicant. After completion of

investigation, a charge-sheet was filed against the applicant.

2. By the judgment dated 16.02.2010 learned trial Court convicted the accused/applicant under Section 34(1)(A) and 34(1)(f) of the Excise Act and imposed the sentence of RI for 1 months and to pay fine of Rs. 5000/- plus default stipulation. The findings recorded by the trial Court have subsequently been confirmed by the lower Appellate Court by the judgment dated 27.10.2010 and it is that which is under challenge in this revision.

3. Counsel for the accused/applicant would argue that the independent witnesses of seizure did not support the prosecution story. He further argued that there is no cogent evidence on record to show that the applicant was in conscious possession of the illicit liquor. He further submits that there is no evidence to show that the Mahua pass was seized from the exclusive possession of the accused/applicant but even then the Courts below have convicted him for the same, which is not sustainable in law.

4. State counsel however supports the judgment impugned and submits that the concurrent findings of fact recorded by both the Courts below being well grounded and well founded do not call for any disturbance in these revisions.

5. I have heard Learned Counsel appearing for the parties at length and perused the records of the Courts below minutely.

6. The prosecution has examined total 5 witnesses. Out of them, Makhan Lal (PW-1) and Damru Lal (PW-2) are the independent witnesses and have not supported the prosecution story and therefore, they have been declared hostile. Mahesh Das Mahant (PW-3) is the witnesses to the seizure though has denied the seizure of liquor yet he has admitted his signature on the seizure memo (Ex.P-2).

7. Inspector G.L. Shrivastava (PW-4) has stated that on receiving a secrete information, house of the accused/applicant was raided by him along with the associates where he asked the applicant about the key of the lock of his house, then the applicant replied that he had kept the key somewhere else. Thereafter, he broke the lock of the house and total 7 bulk liters of country-made liquor contained in a plastic jerry can, 25 KG of Mahua pass along with its instrument, and Rs. 210/- the sale proceeds of liquor were also seized under (Ex.P-2) in presence of the witnesses. This witness in his cross-examination has supported the case of the prosecution.

8. Close scrutiny of the material available on record including the evidence of the witnesses goes to show that 7 bulk liters of country made liquor and 25 Kg of Mahua pass and the instruments required for its manufacture were seized from the exclusive possession of the accused/applicant who has even been unable to produce any material to demonstrate that his

act was permitted by any law or rules. Both the Courts below, therefore, have been fully justified in convicting and sentencing the accused/applicant as mentioned above, and no illegality or infirmity is noticeable in the judgment impugned.

9. 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.

Sd/-

(Vimla Singh Kapoor)

JUDGE

Santosh