

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 2669 of 2000**

- Shiv Ram S/o Ram Dhani Gupta aged about 43 years, R/o Near Bus Stand Farasgaon, P.S. Farasgaon, District-Bastar, M.P. (Now Chhattisgarh).

---- Appellant**Versus**

- State of M.P. (Now Chhattisgarh)

---- Respondent

For Appellant : Mr. Keshav Dewangan, Advocate.
For Respondent/State : Ms. Ishwari Ghritlahre, PL.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****20/09/2021**

1. The present appeal arises out of the impugned judgment of conviction and order of sentence dated 17.12.1999 passed by the learned Special Judge, Bastar at Jagdalpur, M.P., in Special Case No. 5/1998 whereby, the learned Special Judge convicted the appellant and sentenced him as under :-

Conviction	Sentence
U/s 3 r/w 7(1)A(2) of Essential Commodities Act, 1955.	R.I. for 6 months and fine of Rs. 1000/- in default of payment additional imprisonment for 3 months.

2. Brief facts of the case are that on 22.07.1998, P.S. Beru (PW-5) was received a secret information that near Anand Dhaba a man in possession of Kerosene is waiting for any transport. He had reached the spot and enquired, when the appellant failed to produce any documents for the said possession. He seized 140 liter Kerosene from the possession of the appellant and arrested him. It was further alleged that the said kerosene was for the purpose of distribution through Public Distribution Scheme. Since the appellant

was not having license so he was put for trial.

3. So as to hold the accused/appellant guilty, the prosecution has examined as many as 5 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges levelled against him and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 17.12.1999, learned Special Judge, Bastar has convicted and sentenced the appellant for the offence under Section 3 r/w 7(1)A(2) of Essential Commodities Act and sentenced him to undergo R.I. for 6 months and fine of Rs. 1000/- in default of payment additional imprisonment for 3 months. Hence, the present appeal.

5. Heard learned counsel for the parties and perused the material on record including the impugned judgment.

6. Counsel for the appellant submits that he is not pressing the appeal so far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to him, the incident is said to have taken place in the year 1998, and thereby more than 23 years have rolled by since then. He is aged about more than 65 years. The appellant is in jail more than one month, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon him may be reduced to the period already undergone by him.

7. Learned counsel for the State has no objection to this proposition.

8. Having gone through the material on record and the evidence of the witnesses Anoop Nag (PW-1), M.R. Suryavanshi (PW-4) and P. S. Beru (PW-5), establishes the involvement of the accused/applicant in the crime in question and stands proved beyond reasonable doubt. This Court does not see any illegality in the findings recorded by the Court below as regards conviction of the appellant under Section 3 r/w 7(1)A(2) of Essential Commodities Act.

9. As regards sentence, keeping in view the facts that the incident had taken place in the year 1998, and further that the appellant had already remained in jail for more than one month and the appellant is aged about more than 65 years, therefore, I am of the view that ends of justice would be served, if the sentence imposed on him is reduced to the period already undergone by him.

10. Accordingly, the appeal is partly allowed. While maintaining the conviction of the appellant, he is sentenced to the period already undergone by him. The appellant is on bail. His bail bonds shall stand discharged.

**Sd/-
(Rajani Dubey)
JUDGE**