

02.09.2022

BMJR

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CRA 6 of 1992

**Radhashyam Jana
Vs.
The State of West Bengal**

Mr. Narayan Prasad Agarwala
Mr. Pratick Bose

For the State

This is an appeal pending since 1992. On the earlier occasion administrative notice was issued upon the appellant but it was reported by the Department that notice has been returned unserved as the appellant could not be traced out at the given address.

State is represented through learned advocate Mr. Narayan Prasad Agarwala along with Mr. Pratick Bose.

Considering the long pendency of the appeal I think it would be prudent to dispose of the appeal today itself on hearing the same on merit. So, the record is taken up for passing judgment.

The instant appeal has been preferred against the order of conviction under Section 7(1)(a)(ii) of the Essential Commodities Act, for violation of para 4, 5, 7, 35(1)(a)(b) of the Fertiliser Control order, 1985 thereby appellant was sentenced to suffer rigorous imprisonment for 6 months and to pay a fine of Rs. 15000/- in default to suffer simple imprisonment for one and a half months

more, passed by Sri Sankar Roy, Judge, Special Court (E.C Act), Contai by his judgment and order dated the 25th November, 1991 in E.C.A Case No.8 of 1988.

Learned advocate appearing for the State submitted before this Court that during the summary trial of the case witnesses were adduced on behalf of the prosecution and all of them supported the prosecution case. After completion of the evidence of the prosecution the accused was examined under Section 313 Cr.P.C but no sufficient explanations were given by the accused against his accusation in the instant case. He further submitted before this Court that the appeal has no merit and it is liable to be dismissed.

Heard the learned advocate. Perused the impugned order passed by the learned Judge, Special Court, E.C Act, Contai, dated 25th November, 1991 in E.C.A Case No.8 of 1988.

The appellant was convicted under Section 7(1)(a)(ii) of the Essential Commodities Act, 1955. It is pertinent to mention here that the said provision has been abolished now but the offence has already been proved and the order of conviction has been made out by a Court of competent jurisdiction.

In perusing the judgment it appears to me that the learned Court below has categorically explained his finding and it is a speaking order. I find no doubt to disbelieve the finding of the learned Court below. Accordingly, the appeal appears to me has no merit. Hence, the appeal is dismissed.

The impugned judgment and order passed by the learned Court below dated 25.11.1991 in E.C.A Case No.8 of 1988 is hereby

affirmed. The appellant is not represented. The ACJM Contai is directed to issue warrant of arrest in the name of the convict appellant for his production before him and to serve out the sentence.

Let a copy of this order be served upon the ACJM Contai through District Judge, Purba Medinipur.

The instant appeal is disposed of.

(Subhendu Samanta, J.)