

31.10. 2022
item No.12
n.b.
ct. no. 551

CRA 14 of 1991

**Badiujaman
Vs.
State of West Bengal**

Mr. Narayan Prasad Agarwala,
Mr. Pratick Bose
.....for the State.

The instant criminal appeal has been preferred against an order and judgment dated 1st December, 1990 passed by the Learned Judge, Special Court, E.C. Act, Murshidabad in Case No. G.R.E. 1/85 convicting the present appellant and sentenced him to suffer rigorous imprisonment for one year for committing offence punishable under Section 7(1)(a)(ii) of the Essential Commodities Act for violation of para 4 and 11(2) of the West Bengal Kerosene Control Order 1968.

During the course of hearing of the instant appeal, the administrative notice was issued upon the appellant and the service of notice has been effected upon the appellant; in spite of the same he did not appear. Accordingly, the matter is taken up for hearing on merit.

Heard learned advocates for the State Mr. Narayan Prasad Agarwala and Mr. Pratick Bose at length perused the impugned Judgment and also perused the Lower Court Records.

It appears from the impugned judgment that the present appellant along with another Debananda Dutta son of Late Balaram Dutta, Beldanga was also found guilty and were convicted. The instant appeal has been preferred by the present appellant only.

The brief fact of the matter is that on 17.1.1985 P.W. 1 that is the de facto complainant; on the basis of secret information along with force appeared at Khidirpur Ghat where a Motador Van was found coming from Berhampore side towards Hariharpara. The Van was intercepted, wherefrom eight barrels of kerosene oil were found. The accused Debananda Dutta was the driver and the present appellant i.e. Badiujuman was the owner of the kerosene oil. They could not produce any valid paper or document regarding their possession of the kerosene oil then the case was initiated. The seizure was effected by preparation proper of seizure list on the spot. On measuring the eight barrels of kerosene oil it appears total 1360 liters. The accused persons were arrested. After completion of investigation the police submitted the charge-sheet. During course of the enquiry one accused namely, Jas Karan Kochar was discharged, as there was no evidence against him.

It further appeared that during the trial the prosecution has been examined as many as five witnesses including the I.O. All the witnesses have supported the prosecution case and the seizure list has been properly proved. During the trial both the accused persons were enquired under

Section 313 of the Code of Criminal Procedure. But no explanation was given by the accused/convicted persons regarding their possession of the kerosene oil. During the course of statement under Section 313 of the Code of Criminal Procedure the appellant submitted that he will adduce evidence in his favour, but no such evidence has been adduced.

After through consideration of the impugned judgment it appears to me that the impugned judgment has specifically mentioned the grounds and basis of the conviction of the accused persons, I find no infirmity or illegality in the said finding. The allegation against the convicts had been sufficiently proved by the State beyond reasonable doubt.

Accordingly, I find no materials to entertain the appeal. Thus, the instant appeal appears to be not meritorious and liable to be dismissed.

Hence the instant appeal is dismissed. The impugned judgment and sentence passed by the Learned Court below is hereby affirmed.

The appellant and other convict is on bail and they did not appear before this appellate Court. Thus, the Chief Judicial Magistrate, Murshidabad is directed to issue a warrant of arrest against the convict persons, so that they may be brought to the Court of law to serve out the sentence.

Let a copy of this order be sent to the Learned Chief Judicial Magistrate, Murshidabad through Learned District Judge, Murshidabad for its proper compliance.

Accordingly, the instant criminal appeal along with connected applications is disposed of.

The order of stay, if any, passed by this Court during the course of appeal is also vacated.

The Lower Court Records be sent down.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Subhendu Samanta, J.)