

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.A. 386 of 1986

Chitta Ranjan Saha

-Vs-

State of West Bengal

Amicus Curiae : Ms. Suchismita Dutta

For the State : Mr. N. P. Agarwala
Mr. P. Bose

Heard on : 14.06.2023, 01.08.2023, 29.08.2023, 11.12.2023.

Judgment on : 15.12.2023.

Ananya Bandyopadhyay, J.:-

1. This appeal is preferred against the judgment and order dated 29-07-1986 Passed by Learned Judge, Special Court, (E.C. Act), Cooch Behar, convicting the accused/appellant under Section 7(i)(a)(ii) of the Essential Commodities Act for violation of the provision of West Bengal Rice and Paddy (Licensing & Control) Order, 1967, West Bengal Rice and Paddy (Storage by Consumers) Control Order and West Bengal Declaration of Stocks & Prices of Essential Commodities, 1977 and sentencing him to suffer simple imprisonment for 6 months and also to pay a fine of Rs. 500/- in default to suffer simple imprisonment for 30 days more in Case No. Special E.C. G.R. Case No. 32 of 1984.

2. The prosecution case narrated that on 12-09-1984 the Inspector of District Enforcement Branch along with D.K.De, Inspector of Police and with other staff visited the godown of Chittaranjan Saha and found 29 bags of rice in the said godown. Chittaranjan Saha admitted that he dealt in rice but he failed to produce any licence required for dealing with the same. He also failed to show the Stock Register, Cash Memo etc. Moreover, no stock or rate board was found in the godown and thereby the accused violated the provisions of (1) West Bengal Rice and Paddy (Licencing and Control) Order, 1967, (2) West Bengal Rice and Paddy (Storage by Consumers) Control Order, (3) West Bengal Declaration of Stocks and Prices of Essential Commodities, 1977.
3. In order to prove the case, the prosecution examined 8 witnesses and the defence examined none.
4. Learned Trial Judge convicted appellant under Section 7(i)(a)(ii) of the Essential Commodities Act and accordingly sentenced him to suffer simple imprisonment for 6 months and also to pay a fine of Rs. 500/- in default to suffer simple imprisonment for 30 days more.
5. The Learned *Amicus Curiae* for the appellant submitted that –
 - i. The evidence of P.W. -3 elicited in cross-examination to have not seen any place of business of the accused and he did not see the accused at the relevant time dealing in rice.
 - ii. No evidence was adduced to show that the godown belonged to the appellant nor there was anything on record to prove that the appellant was the owner of the seized rice.

- iii. The petition and the report exhibited in the case to show that the appellant filed a petition for licence claiming that he had been dealing in rice, were not admissible as those documents had not been proved in accordance with law.
 - iv. Even in the alleged petition the godown has been shown at Atharonala which was about one mile away from Dewanhat Bazar which disproved the prosecution version as the alleged godown was situated at Dewanhat Bazar.
 - v. It had been alleged that the aforesaid godown was the business place cum godown of the appellant but there was no evidence on this point and none had been examined by the prosecution to show that any one even purchased rice from the alleged godown or from the appellant.
 - vi. All the witnesses were interested witnesses and there was no independent witness to support the prosecution version.
 - vii. The material evidence not having been considered and the relevant circumstance not taken into account, the order of conviction and sentence is not in accordance with law and therefore the order of conviction and sentence was liable to be set aside.
6. The Learned Advocate for the State submitted that the prosecution had been able to prove its case on the basis of corroborative evidence of the prosecution witnesses and the appeal should accordingly be dismissed.
7. A circumspection of the prosecution witnesses revealed as follows:
- a. PW-1 deposed that the appellant failed to show valid documents for the purchase of 29 bags of rice, stock register, cash memo etc.

No stock board, or rate board was found in the godown. PW-1 did not seize any documents relating to the ownership of the godown. The sample of seized rice was not kept for further assessment.

- b. PW-2 was declared hostile by the prosecution. PW-2 proclaimed the appellant to be a farmer and he was unaware as to whether the godown belonged to the appellant.
 - c. PW-3 also indicated the appellant was a farmer and he was not declared hostile by the prosecution. During his cross-examination, PW-3 denied to have seen any place of business of the appellant and the at the relevant of time he did not see the accused dealing in rice.
 - d. PW-4, inter alia, stated that without licence it was not possible to deal with rice and no such licence was issued.
 - e. PW-6, the S.I. of Police attached to D.E.O., Mathabhanga Police Station, did not enquire whether the appellant had any landed property. He did not seize any paper relating to the ownership of the godown. He did not examine any customer who purchased rice from the accused. He did not sent the document marked Exhibit-6/2 for expert opinion in order to ascertain whether the signature was the original signature of the accused or not.
8. The prosecution failed to produce any independent witnesses to have purchased rice from the godown of the appellant alleged to have been dealing with the wholesale of rice. Evidently, licence for trading in rice of selling of the same was not issued in favour of the appellant. Therefore, the appellant

without a licence to deal with selling or rice cannot produce cash memo, stock register, rate board etc. Mere aspersions without concrete evidence cannot sustain the conviction of the appellant.

9. In view of the above discussions, the prosecution has failed to prove its case beyond reasonable doubt and accordingly the instant criminal appeal is allowed.
10. Accordingly, the judgment and order dated 29-07-1986 passed by Learned Judge, Special Court, (E.C. Act), Cooch Behar, convicting the accused/appellant under Section 7(i)(a)(ii) of the Essential Commodities Act for violation of the provision of West Bengal Rice and Paddy (Licensing & Control) Order, 1967, West Bengal Rice and Paddy (Storage by Consumers) Control Order and West Bengal Declaration of Stocks & Prices of Essential Commodities, 1977 and sentencing him to suffer simple imprisonment for 6 months and also to pay a fine of Rs. 500/- in default to suffer simple imprisonment for 30 days more in Case No. Special E.C. G.R. Case No. 32 of 1984 is set aside.
11. The instant criminal appeal being CRA 386 of 1986 stands disposed of.
12. There is no order as to cost.
13. I record my appreciation for the able assistance rendered by Learned Advocate, Ms. Suchismita Dutta, as *Amicus Curiae* in disposing of the appeal.
14. Lower court records along with a copy of this judgment be sent down at once to the Learned Trial Court for necessary action.

15. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)