

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.A. 5 of 1996

**Rajyadhar Mondal & Anr.
-Vs-
The State of West Bengal**

For the Appellant (Amicus Curiae)	: Mr. Santanu Talukdar
For the State	: Mr. Narayan Prasad Agarwala Mr. Pratick Bose
Heard on	: 04.10.2023, 08.12.2023, 13.12.2023
Judgment on	: 12.03.2024

Ananya Bandyopadhyay, J.:-

1. This appeal is preferred against the judgment and order dated 06.12.1995 passed by the Special Court (E.C. Act) Suri, Birbhum in Special Court Case No. 57/92 thereby finding the accused/appellant above named guilty under Section 7(i)(a)(ii) of the Essential Commodities Act , 1955 and para 18 of the West Bengal Rice & Paddy (Licensing & Control) Order, 1967 and sentenced him to suffer simple imprisonment for 3(three) months and also pay a fine of Rs. 500/- in default to suffer imprisonment for 15 days more.
2. The prosecution case in brief was that on 26.12.92 an inspection was held by the D.E.O officers at village Gola, Kastogora and Soasa pursuant to a source information that one Rajyadhar Mondal of village Soasa had

unauthorisedly stocked huge quantity of paddy. On reaching the spot, it was found that proper stock of paddy was not maintained as such there was the violation of para -18 of the West Bengal Rice & Paddy (Licensing and Control) Order, 1967. The said Rajyadhar was absent. Prasanta Mondal was detected to be delegated the duties of Rajyadhar loose sheets denoting daily purchase of paddy was noticed case memo was issued upto 18.12.92 as per the register. Stock register was written upto 18.12.92 and paddy purchase register was written upto 11.12.02.

3. During the trial the prosecution examined four witnesses and exhibited certain documents and the defence cited one witness.
4. The Learned Advocate for the appellant submitted that the Learned Judge totally disbelieved DW-1 which caused serious prejudice to the defence.
5. A circumspection of the prosecution witnesses revealed as follows:-
 - i. PW-1 in his deposition stated that he was attached to Rampurhat D.E.B. On 26.12.1992 he raided the case premises of the accused Rajyadhar Mondal, which was situated under Rampurhat P.S. at Suasa village, in his absence but in the presence of his brother Prasanta Mondal who was served with notice. P. Mondal consequently produced the relevant papers connected with paddy purchase business. He proved the notice Ext. 1 by identifying the same as bearing his handwriting and signature. On inspection of the papers produced by Prasanta he found discrepancy in the actual stock shown in the register and the stock found after weighment. Entries in the register were also not found up-to date. The entries in

the register were found up to 18.12.92 showing 62 quintals of paddy. He said that weighing of the paddy had been made by the employee Manmatha Let of the company. He proved the Chart marked Ext. 2. The stock and purchase register and cash memo book seized by him were marked Mat. Ext. 1 collectively. The entire stock of paddy, and mat. Ext. 1 collectively were seized by him by one S/L. He proved the S/L by identifying his handwriting and signature marked as Ext. 3. The seized paddy was given in jimma by him to Sujit Mondal and on his refusal the seized paddy was given in jimma to the Manager of Bakreswar Rice Mil named Arindam Anchali. This was the jimmanama bearing handwriting of Arindam Anchali. He identified the jimmanama marked Ext. 4 by stating that it bore the handwriting of Arindam and himself. Thereafter the accused P. Mandal was arrested by him. Thereafter the accused and all the documents relating to the case were produced to Rampurhat P.S. He identified the F.I.R. signed by him before the P.S. by identifying his handwriting and signature appearing in the F.I.R. marked as Ext. 5. J. Bhattacharjee was O.C. of Rampurhat P.S. (torn) time. The formal F.I.R. was filled in by J. Bhattacharjee in his presence had been identified by him marked as Ext. 5/1.

- ii. During his cross-examination PW-1 deposed that he admitted that he had no independent knowledge. He admitted that his testimony was based on records. He admitted that he did not know the accused prior to his visit to the P.O. as it was his first visit to the P.O. He

admitted there was no record as to the person who was supposed to identify the accused to him. He said that the alleged purchasing centre was near the bus stand and he identified the purchasing centre to the vacant portion and its adjacent houses. He deposed that he could not recollect, however there might be possibility of only one kuthuri at the P.O, and not two as suggested by the accused. He admitted that he could not ascertain as to the whereabouts of the owner Rajyadhar. He admitted as he could not ascertain his whereabouts till lodging of the F.I.R. no opportunity was given to Rajyadhar to show cause. He started for the P.O. about an hour before time of arrival. He admitted that he went to the P.O. from Mayureswar via Rampurhat. He reached the P.O. by a vehicle. The number of which he could not recollect. It was not noted in the F.I.R., that one constable attached to him did accompany him to the P.O. Individual record of each weighment for each bag was prepared by him. He admitted that the detailed sheet of weighment chart had not been produced before the court. He admitted that Exhibit 2 was not prepared by him but it was approved by him. He denied that Manmatha Let who was stated by him as an employee of the paddy purchasing centre of Rajyadhar was not equally liable like Rajyadhar. No separate labour for weighment was engaged. The paddy was kept stacked on the floor and the sacks were within the coothari. Though separate weighment of each sack was made. He admitted that the licence was not or could not be obtained by him though the notice

was served to produce the licence by Prasanta and without ascertaining the licence, F.I.R. was submitted. He admitted that he did not enquire of the ownership of the plot and surrounding land owners as it was not necessary for him to do so. He admitted there was no document as to whether the case premises was granted authority to conduct business of paddy purchasing centre. He admitted that he did not enquire about whose handwriting the Mat. Ext. 1 collectively bore. About 5 to 10 persons came to the P.O. from the bus stand. He admitted that he did not find any transaction between customers and the accused Prasanta when he reached the P.O. The measuring instrument was made to hang over three bamboo polls. Apart from the statement of Prasanta he had no evidence to show either documentary or oral that Prasanta ever assisted Rajyadhar in his business. He admitted that he did not collect any sample of the paddies to show varieties of the paddy. He admitted there was no outsider's presence at the time of raid. He admitted preparation of the S/L in one sitting. On all the exhibited documents he admitted that he noted himself the P.S. Case Nos, on the top of Exhibit list. He admitted that there was overwriting in Ext. 1 on the time mentioned in the Ext. 1. The overwritings were without any initial. He admitted that it was not mentioned in Ext. 3 as to from whom the articles were seized. Till date he did not know Rajyadhar. He denied that he had not seized paddy from the stock of Rajyadhar. He admitted that till lodging of the F.I.R he did not enquire about the

quantum of agricultural lands of Prasanta and his family. He denied that the accused had been implicated in this case falsely. He denied that he seized the paddy of Prasanta from his possession which Prasanta and his family produced from their lands. He denied that no weighment was made or that any W/C was prepared by him. He denied that in the absence of Rajyadhar the Mat. Ext. 1 collectively were procured from the house of Rajyadhar. He denied that Prasanta had no business in paddy nor Rajyadhar did run any paddy purchasing centre. He denied that the P.O. was not the paddy purchasing centre of Rajyadhar. He denied that as Prasanta was under his custody he was forced to write the documents.

- iii. PW-2 in his deposition stated that on 26.12.1992, S.I. Sukumar Dutta submitted a W/C before him. He was the D.E.O. of Rampurhat. On getting the complaint he made endorsement on it. He identified his signature and handwriting marked as Ext. 5/2. Thereafter Rampurhat P.S. Case No. 191/92 was started. He identified Ext. 5/1 as the formal F.I.R.
- iv. PW-3 in deposition stated on 26.12.1992 he was attached to Mayureswar P.S. On that date he accompanied PW-1 to Soasa village. PW-1 visited the place of occurrence, seized paddy and collected papers. He prepared a S/L in his presence. He identified his signature appearing on the S/L marked as Ext. 3/1. The accused on dock could not be identified him. PW-3 in his cross-examination stated that it was first time he commented on the case. He did not

disclose the case to anybody else. He stated that he visited the Soasa village for the first time. He admitted that he did not know anything about Rajyadhar and his business. About 40/50 persons of the locality gathered at the time when they reached the place of occurrence. He denied that he deposed as per instruction of the PW-1.

- v. PW-4 in his deposition stated on 31.12.1992 he was attached to D.E.B., Rampurhat. On that date he was entrusted with the record in question to investigate the case. On getting the order he visited the place of occurrence, examined witnesses, prepared sketch map and after completion of all the formalities, submitted the charge-sheet. The sketch map was proved by the witness. It bore his handwriting and signature marked as Exhibit 6.

6. During cross-examination, PW-4 stated that he had no independent recollection about the case. He indicated in the sketch map what he got the place of occurrence. From sketch map, it could not be ascertained the distance of the bus stand. He had not enquired about the no. of the pole. He had not enquired the plot no. of the place of occurrence and also the ownership of the plot no. of surrounding lands. There were no adjacent vacant land in the Kuthri marked V in the sketch map. There was no note as to the no. of the vehicle used at its log book etc. He denied that Manmatha Let was not an employee under Rajyadhar. He did not have personal knowledge about the P.P.C. of the accused. He did not ascertain from F. and Supply Office, Government if the accused had any paddy purchasing

business. He had not enquired if the alleged place of occurrence was covered by any P.P.C. of anybody. He did not have personal knowledge about the quantum of cultivable land of the accused Prasanta and his family. He denied to have implicated the accused in a false case.

7. Heard the submissions of Learned Advocate for the appellants and the State.
8. DW-1 the father of the appellants stated that the land in question belonged to him and he handed over the deeds pertaining to the same to the Investigating Officer, which was not inquired in terms of its authenticity. The evidence of the prosecution witnesses comprising the raiding party was vague and inconsistent. The seizure was improperly conducted. None of the 40/50 people claimed to present at the place of occurrence was cited witness or examined or produced as a seizure list witness. None of the customers of the locality was cited as a witness. The violation stipulated under the said Act was not produced by the prosecution.
9. Under the facts and circumstances, the prosecution has failed to establish its case beyond reasonable doubt and as such the criminal appeal is allowed.
10. Accordingly, the criminal appeal being CRA 5 of 1996 stands disposed of.
11. There is no order as to cost.
12. I record my appreciation for the able assistance rendered by Mr. Santanu Talukdar, Learned Advocate as Amicus Curiae in disposing of the appeal.
13. Lower court records along with a copy of this judgment be sent down at once to the Learned Trial Court for necessary action.

14. 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.)