IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.A. 237 of 1997

The Calcutta Municipal Corporation
-Vs-
M/s. Annapurna Oil Mill Pvt. Ltd.

For the Appellant	: Mr. Goutam Dinda Mr. Anindya Sundar Chatterjee
For the Respondent	: Mr.Dinabandhu Choudhury Mr. Amal Kumar Saha
Heard on	: 01.03.2024, 23.04.2024, 22.08.2024
Judgment on	: 13.11.2024

Ananya Bandyopadhyay, J.:-

1. This appeal is preferred against judgment and order of acquittal dated 30.05.1996 passed by the Learned Municipal Magistrate, 2nd Court, Calcutta in Case No. C/1411 of 1990 acquitting the accused person of the charge under Section 435 of the Calcutta Municipal Corporation Act, 1980.
2. The prosecution story precisely stated one S.K. Sadhukhan was running an oil mill in the premises No. 121, Raja Dinendra Street run by electricity during the assessment period 1989-90 and the licence fee under section 435 CMC Act, 1980 was assessed at Rs. 2000/- for the period 1988-89 and the accused/opposite party paid the health licence of Rs. 2000/- as demanded

by the Corporation/appellant for the year 1988-89. The instant case is relating to the demand of Rs. 2000/- for the assessment period 1989-90 and since the opposite party failed to pay the Health Licence fee as demanded by the Corporation.

3. The defence case was that the opposite party was not liable to pay the Amount of Rs. 2000/- for the assessment year 1989-90 as demanded by the Corporation/appellant under Section 435 CMC Act, 1980 as the assessment order Dated 7.6.89 of the Deputy Licence Officer was quashed by the Hon'ble High Court by order dated 14.11.91 and the Corporation/appellant was directed to make fresh assessment as provided under law after giving opportunity of hearing to the opposite party.

4. Since, the Corporation/appellant had failed to make fresh assessment as per the order of the Hon'ble High Court, by the subsequent order dated by 15.4.92 passed by the Division Bench of the Hon'ble High Court, the amount of Rs. 2000/- per annum as ad-hoc payment was reduced to Rs.500/- as such the opposite party was not liable to pay Rs. 2000 /- per annum as demanded by the Corporation/appellant. The assessee/opposite party prays for dismissal of the prosecution and acquittal from the plea under Section 435 CMC Act. The accused assessee/opposite party thus stood the trial pleading not guilty to the plea under section 435 CMC Act.

9. The relevant portion of the order dated 30.05.1996, passed by the Learned Municipal Magistrate, 2nd Court, Calcutta in Case No. 1411 C/90 is reproduced hereinbelow:-

"There is nothing convincing in the evidence of the complainant that the Corporation gave notice to the accused while making fresh assessment and gave of an opportunity of hearing to the accused during assessment and also further opportunity of hearing during assessment the past assessment period. The accused by his letter (Ex 4) complained that he has not been given opportunity of hearing during the assessment as directed by the Hon'ble High Court vide order dated 14.11.91. No documents have been placed by the complainant before the Court relating to the fresh assessment."

10. In view of the above discussions, the Learned Trial Court justifiably acquitted the opposite party after considering all the oral and documentary evidence on record and rightly passed the impugned order and this Court is not inclined to interfere with the same.
11. Accordingly, the instant criminal appeal being CRA 237 of 1997 is dismissed.
12. There is no order as to costs.
13. Trial 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.)