

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.A. 16 of 1996

Chandra Mohan Roy

-Vs-

The State of West Bengal

For the Appellant : Ms. Monami Mukherjee
(Amicus Curiae)

For the State : Ms. Faria Hossain
Ms. Mamta Jana

Heard on : 10.05.2024, 09.09.2024

Judgment on : 21.04.2025

Ananya Bandyopadhyay, J.:-

1. This appeal is preferred against the judgment and order dated 30.12.1995 passed by the Learned Judge, Special Court, Dakshin Dinajpur at Balurghat in Special Case No.26 of 1991 to the extent, inter alia, considering his age and other circumstances, he was sentenced to suffer rigorous imprisonment for 6(six) months and to pay a fine of Rs.500/-, in default, to suffer further rigorous imprisonment for 1(one) month.
2. The prosecution case in brief was that on or about 20th December, 1991 at about 16:15 hrs. at Taherchak, Patiram-Trimohini road the D.E.O. along with other police officers and force had been to Taherchak and found the appellant carrying 3 bags of paddy by his cycle. The police officer intercepted

the cyclist and detained the appellant/accused. Being asked by the police officer in presence of the witnesses, the appellant/accused disclosed that he purchased 6 maunds of paddy from Thakurpura hat for the purpose of business. Being asked by the police officer the appellant failed to produce any valid licence or authority for dealing in paddy as required under the law. The police officer seized the paddy along with the cycle and other articles and arrested the appellant.

3. The appellant was placed on trial in Special Court Case No.26 of 1991 on a charge framed against the appellant under Section 7(1)(a)(ii) of the Essential Commodities Act, 1955.
4. The appellant pleaded not guilty and claimed to be tried.
5. The prosecution cited three witnesses and the appellant cited two witnesses including himself as witness.
6. The Learned Amicus Curiae representing the appellant submitted the petition of complaint treated to be the First Information Report, did not disclose commission of any cognizable offence.
7. The Learned Advocate for the State submitted that the prosecution was able to prove its case beyond reasonable doubt and the appeal shall be dismissed.
8. Considered the submissions of the Learned Advocates representing both the parties.
9. The oral as well as the documentary evidence on record failed to establish that the appellant had purchased the paddy for the purpose of trading or selling the same to other people.

10. Apart from assertion of 6 maunds of rice to be recovered from the possession of the appellant, the same was not weighed or quantified. Mere suspicion of assumption cannot lead to the conviction of the appellant in dearth of proper evidence.
11. In view of the above discussions, the judgment and order dated 30.12.1995 passed by the Learned Judge, Special Court, Dakshin Dinajpur at Balurghat in Special Case No.26 of 1991 is set aside.
12. The prosecution failed to prove its case beyond reasonable doubt and the appeal is allowed.
13. Accordingly, the instant Criminal Appeal being CRA 16 of 1996 is disposed of.
14. There is no order as to costs.
15. I record my appreciation for the able assistance rendered by the Learned Advocate Ms. Monami Mukherjee as Amicus Curiae in disposing of this appeal.
16. Trial Court records along with a copy of this judgment be sent down at once to the Learned Trial Court for necessary action.
17. 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.)