

IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRA 65 OF 1992

GURUPADA PAUL

VS

THE STATE OF WEST BENGAL

Amicus Curiae : Mr. Soham Banerjee, Adv.
For the State : Ms. Manisha Sharma, Adv.
Ms. Debadrita Mondal., Adv.

Last heard on : 17.09.2025

Judgement on : 07.11.2025

Uploaded on : 07.11.2025

CHAITALI CHATTERJEE DAS, J. :-

- 1.** This appeal under Section 374 of the Code of Criminal Procedure has been filed by the appellant against an order of conviction under Section 7 (i)(a)(ii) of the Acts of 1955, on the pretext of the contravention of the West Bengal, rice and paddy (licensing, and control) 1967 and sentences to suffer rigorous imprisonment for three months to be ₹300 passed by the Learned Judge, Special Court at Mala on 15.1.1992, in Special Case no. 24 of 1990.
- 2.** The prosecution case in a nut shell is that on 12.7.1990 in between 1 P.M. and 3 P.M. , S.I M.N. Chatterjee , D.E.O Sadar Malda along with S.I, K.S Das, D.E.O, Gazole ,Constable S. Pathak apprehended a mini truck no. WGR 2467,

carrying 62 bags of paddy weighing 35 quintals at Kaluadighi Bridge. Dilip Kumar Pal was the driver and accused Gurupada Pal was the other occupant of the truck. According to their claim, the aforesaid quantity of paddy was of them and they were carrying the same for the business, but on demand accused Gurupada failed to produce any license for transporting paddy for such business. After that Gurupada was arrested and the articles were seized and complaint was lodged at Malda Police Station and accordingly D.G.R case No. 44 of 1990 under Section 7(1)(a) (ii) of the Essential Commodities Act was started by the police. On completion of investigation, the charge sheet submitted by the I.O against the accused./appellant for violation of para 3(i) of the West Bengal, Rice and Paddy (license and control) prohibition of unauthorised sale order, 1967 and for committing the offence punishable under Act X of 1955, section 8 of the said Act . On trial, five witnesses were examined on behalf of the prosecution and learned Special Court considering the evidences adduced by the accused person /appellant, under Section 313 of the Code of Criminal Procedure passed the order of conviction against each of the convict. Being aggrieved, thereby this appeal has been filed by the appellant Gurupada Paul.

- 3.** The learned Amicus Curiae appointed in this case by this Court argued that the Learned Special Judge did not consider the important facts like the weight of the seized paddy of 35 quintal and failed to consider the serious discrepancies in the evidences regarding the place of seizure of paddy. There was a delay in filing the first information report which was not explained but this fact was also not considered by the Learned Special Court. It was further

argued that the seizure list was defective and no seal or label was there on the seized Article. Accordingly prayed for a setting aside the order of conviction.

4. The prosecution on the other hand argued that the accused person failed to produce any documents regarding the large quantities of paddy, which they are carrying through the mini truck .In terms of the relevant provision on suspicion and demand by the police authorities, the accused person is under compulsion to produce the necessary documents. Therefore the officer rightly seized the paddy and the article in presence of locals witnesses who adduced evidence before the Court .That apart the accused/appellant was examined, under Section 313 of Cr. PC but the accused person failed to make out any satisfactory explanation. Accordingly, the Learned Court rightly passed the order of conviction against the present appellant and this appeal is liable to be dismissed.

5. Heard the submission of both the learned Counsels. The point falls for consideration is whether the prosecution was able to prove the case beyond the shadow of reasonable doubt or as to whether the Learned Special judge passed the order of conviction rightly. In this case, P.W.1, Prakash Chaki and P.W.2, Arjun Nagar, were the witnesses to the seizure of the case property. The P.W.3, S.I K.S Das was a member of the raiding party and headed the raiding party who deposed that the accused driver identified accused as the owner of the paddy which were seized and Gurupada also claimed the same to be his own and was carrying the same for business purpose. P.W.4, Subodh Chandra Pathak, the constable and a member of the said raiding party also has supported the prosecution case by his testimony. Shri M.N Chatterjee, the S.I.

adduced evidence as P.W.5, who was the informant as well as the I.O of the prosecution case and by his testimony proved the F.I.R and the seizure list.

6. In this case, the accused adduced one witness being D.W.1, Budheswar pal, being neighbour of accused and who deposed that on the relevant day at 1/2.30 P.M., he was returning with accused Gurupada by said mini truck as passenger on their way and at Alampur he dropped down while Gurupada continued to travel and accused Gurupada do not deal with paddy. It is seen that the mini truck was detected by constable Pathak with S.I.K.S Das, D.E.O (1) Malda, and it was the case that the truck was carrying 62 bags of paddy weighing 35 quintal. Nowhere from the four corner of the investigation, it can be seen that any weighing machine was used to weigh quantity of those 62 bags and also no evidence is found as to how the I.O quantified the said 62 bags. The two witnesses being the seizure list witnesses read that the Paddy owner was sitting in the case truck at the relevant time and claimed the paddy to be of him. Nothing can be found from the four corner of the judgement passed by the Learned Special Court that this fact was put to the accused./appellant as incriminating material and or how he dealt with the same. Moreover he specifically denied to be the owner of such paddy. No document can be found to determine that the person concern claimed the paddy of his own, excepting the evidence of those two witnesses. The defence has set out a different claim but the I.O of this case never tried to ascertain the veracity of such statement. Other than P.W.1 and P.W.2, other witnesses, were the member of the raiding party, including the I.O, who was the complainant. The owner of the truck was not cited as witness.

- 7.** The learned Special Court heavily relied upon the evidence of the seizure list witness who claim that Gurupada said to be the owner of the seized paddy. The Learned Court did not consider the evidence adduced by D.W1, considering the same as a tutored witness considering the evidence of the driver of the mini truck who said that accused Gurupada claimed to be owner of case paddy.
- 8.** Nothing can be seen from the evidence adduced by the prosecution witnesses, that the 62 bags were sealed or labelled and were produced before the Court when the P.W.1 and P.W.2 adduced evidence. Excepting the F.I.R & the seizure list no other documents or materials were exhibited before the Court. It is seen that the Learned Special Judge only considering those two documents without assigning any reason, only considering the evidence of the seizure list passed the order of conviction. The I.O did not prepare any sketch map in respect of the place of occurrence or where the seizure list was prepared as it is found that the Paddy along with the mini truck were brought to Malda Police station where said S.I.M.N Chatterjee lodged the written complaint who headed the raiding party and who did the investigation and filed prayer for confiscation of the seized paddy.
- 9.** Therefore, this Court is of the view that the seizure list was prepared, not following the procedure in terms of Section 100 (4) of Cr.Pc, no weighing machine was used to ascertain the exact weight of 62 bags, no seal or label was put to those 62 bags for their identification and the credibility of the witnesses are also questionable. Most importantly there is no direct evidence against the appellant regarding dealing with the paddy which were seized. The Learned Court relied upon the evidence of P.W. 1 and 2 who are the seizure list

witnesses that the appellant claimed to be the owner but did not rely upon the evidence of D.W. who claimed to be another passenger of the truck and travelled up to a certain distance with the appellant and said the appellant did not deal with him. No other independent witness adduced evidence in this case. Therefore from the above facts and circumstances the observation of the learned Special court is liable to be set aside.

10. In this case the Learned Special Judge passed the order of conviction against the driver for abatement of the offence however he has not come before this Court.

11. Accordingly this court is unable to concur with the judgement and order of conviction passed by the Learned Court and hence the same is liable to be set aside.

12. This Criminal Appeal stands allowed. The appellant is accordingly acquitted of all charge and discharged/released from his Bail bond.

13. Urgent certified copy of applied be given at an earliest subject to fulfilment of all other requirements.

(CHAITALI CHATTERJEE DAS,J.)