

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

HEARD ON: 10.09.2025
DELIVERED ON: 10.09.2025

CORAM:

THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)

C.R.A. 444 of 1990

Imtiyaz Ahamed @ Imitiyaz Ahamed Khan

Vs.

The State of West Bengal

Mr. Aniruddha BhattacharyyaFor Amicus Curiae

Mr. Ranabir Roychowdhury

Ms. Rajashree TahFor the State

JUDGMENT

(Judgment of the Court was delivered by Chaitali Chatterjee (Das) J.)

1. This instant criminal appeal has been filed under Section 374(2) of the Code of Criminal Procedure against the judgment and order dated 7th September, 1990 passed by learned Special Judge, E.C. Act cum Additional District & Sessions Judge, Midnapore arising out of Jhargram P.S. Case No.13 dated 13th September, 1988 under Section 7(1)(a)(ii) of the Act X of 1955 whereby the accused/appellant and three others were convicted of the Essential Commodities Act.
2. In this case, Mr. Aniruddha Bhattacharyya, learned advocate has been appointed as Amicus Curiae.
3. Heard the submission of both the learned counsel appearing for the parties and perused the materials on record.

4. The brief fact of the case is that on 13th September, 1988 at about 17:25 hours, the Inspector of Police, D.E.B., Midnapore lodged a written complaint before Jhargram Police Station, District – Midnapore alleging, *inter alia*, that on the date at 4:25 hours, the complainant alongwith Sub-Inspector of Police (P.W.1) W.C. - 2047 Dal Bahadur Lama (P.W.4) and under the leadership of Deputy Superintendent of Police, D.E.B. intercepted one Mini Truck loaded with 39 bags of rice near M/s. Guin Brothers Petrol Pump at Lodhasuli, National Highway – 6 and the four occupants disclosed their particulars and also the accused/appellant herein or the driver of the said truck.
5. It was alleged in the written complaint that the accused persons were asked to produce the relevant papers for carrying aforesaid rice and accordingly, a written notice was also served upon them. However, they failed to produce any document with regard to the same. Accordingly, the complainant seized 39 bags of rice weighing 38 quintals including bags (2) Mini Truck WGB 6875 (3) one Registration Certificate in the name of Sri Krishnapada Bera (4) Tax receipts in the name of the appellant and other persons relating to the vehicle and accordingly, prepared the seizure list.
6. It was further alleged that it was stated before the concerned complainant by the accused person that they purchased rice from the godown of one, Ram Majhi of Village Bela Pada and was exporting the rice to Orissa through Gopiballavpur.
7. It further transpires that on the basis of the said written complaint, the Jhargram Police Station Case No.13 dated 13th September, 1988 under Section 7(1)(a)(ii) of the Essential Commodities Act, 1955 was started against the accused person.

8. In this case, the evidence was adduced by the six witnesses and after framing of charges were read out to the appellant, who pleaded not guilty and claimed to be tried and the trial commenced. In spite of being the said evidence, the learned Court passed the order of conviction without considering that the seizure list as by way of what is the foundation of the entire complaint was not following the relevant provision and is a gross violation and thereby cannot be considered.
9. In view of the above and after assessing the evidence and after going through the judgment delivered by the learned Trial Court it appears that the learned Trial Court failed to accept the contention that the accused person was carrying rice of their own consumption or business. However, the learned Court did not consider the seizure list and nothing is found reflected in the judgment regarding the legality of the said seizure list.
10. Accordingly, this Court is of the view that under the aforesaid facts and circumstances of the case and after assessing the evidence, this Court is unable to concur with the view as expressed by the learned Trial Court and accordingly is of the opinion that the said judgment and order of conviction is liable to be set aside.
11. Accordingly, this appeal stands allowed and this Court finds that the impugned judgment and order passed by the learned Trial Court is hereby set aside.
12. No costs.
13. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(CHAITALI CHATTERJEE (DAS, J.))

