

**Aditya Narayan Singh Vs. State of Bihar**

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**Court :** Patna

**Decided On :** Feb-07-2002

**Judge :** S.N. Pathak, J.

**Appeal No. :** Criminal Revision No. 509 of 2000

**Appellant :** Aditya Narayan Singh

**Respondent :** State of Bihar

**Disposition :** Revision Dismissed

**Judgement :**

**S.N. Pathak, J.**

1. This revision is directed against the judgment dated 6 -7-2000 passed by Addl. Sessions Judge VI, Munger in Cr. Appeal No. 175/98, confirming the judgment of conviction recorded by the trial Court i.e. Railway, Judicial Magistrate, 1st Class, Kieul in RPF Jhajha 2 (3) 87 trial No. 261/98. The revisionist was convicted for the offence under Section 3(a) of Railway Property (Unlawful Possession) Act. He was sentenced to undergo RI for one year. The appellant Court converted it into a sentence of fine and he was directed to pay Rs. 3,000 and in default to undergo 3 months SI.

2. The revisionist was prosecuted for having 8 tonnes of coal in which was mixed 40% of steam coal which belonged to the Railway., The house of the revisionist was searched on a search warrant issued from the Railway Magistrate and the aforesaid seizure was made and seizure list was prepared and the revisionist was prosecuted and on trial, he was convicted and sentenced.

3. It has been submitted that there is no restriction upon the purchase of steam coal from the local market and the revisionist had purchased the seized coal from one Sri Ram Coal Traders at Dhanbad. Moreover, Railway staff was examined who confirmed that the seized coal was mixed with the steam coal and he was only witness to support the fact of steam coal being seized. No other expert-chemical expert was examined to support this fact. Moreover in view of the fact that the revisionist purchased the coal it had to be presumed that he purchased the steam coal. However, the Court will depend upon the evidence adduced by both the parties and it cannot go beyond the evidence on record. The evidence on behalf of the accused did not indicate that he had purchased the steam coal also. Seizure also shows that he was found in possession of steam coal. On search warrant being issued from the Railway Magistrate, it would transpire that the railway employee went to the house of the revisionist on some information that the railway property was in his possession. Now the question is whether the steam coal seized in his possession was railway property. Since the accused did not lead evidence to the effect that the purchase made by him consisted of steam coal also, it would indicate that the steam coal was in his possession. No enmity has been shown nor it was alleged by the revisionist against the railway employee in order to show that the seizure of the article was made on account of this enmity. So far coal seized, it was made over to Tuntun on Zimemenama against whom it is alleged that there was some enmity on account of village politics but this enmity has not been specified nor the nature of the enmity has been indicated. It will be a defence without any foundation. Moreover, this is revision and its scope is restricted to consider the legality and propriety of the decisions of the Courts below. So on the face of it, there is no impropriety in the order of conviction recorded by the two Courts below on the basis of the evidence on record. There is no misapplication of procedural law also. There is no illegality attaching to the order of conviction in either way. So I am of the opinion that the order of conviction

does not call for any interference by this Court. So far sentence is concerned, the appellate Court was rather lenient in converting the sentence into a sentence of fine. So, this revision is dismissed.

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