

Samsul Haque Vs. State of Bihar

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Court : Patna

Decided On : Feb-06-2002

Judge : B.N.P. Singh, J.

Acts : [Essential Commodities Act, 1955](#) - Sections 7; Code of Criminal Procedure (CrPC) - Sections 313; Bihar Trade Articles (Licensing Unification) Order, 1984

Appeal No. : Criminal Appeal No. 366 of 1990

Appellant : Samsul Haque

Respondent : State of Bihar

Advocate for Def. : Bhagya Narain Gupta, A.P.P.

Advocate for Pet/Ap. : Suraj Prasad Singh, Adv.

Judgement :

B.N.P. Singh, J.

1. The appellant suffered conviction under Section 7 of the Essential Commodities Act for violation of the provisions of Bihar Trade Articles (Licensing Unification) Order, 1984 and was sentenced to suffer simple imprisonment for three months.

2. Factual matrix - the Supply Inspector of Hajipur (Vaishali) during investigation, noticed that though the appellant was supplied 200 litres of kerosene oil by M/s.

Ram Bilas Ram Ballabh, who was a wholesale dealer, on the date of inspection, that is, 14th July, 1986, there was shortage of 73 litres of kerosene oil in the drum of the appellant which ostensibly suggested sale of 73 litres of kerosene oil in blackmarket and on these accusations, Police case had been registered against the appellant, pursuant to which the appellant was put on trial.

3. In the eventual trial, prosecution examined altogether 10 witnesses including the Reporting Officer, who happens to be , P.W. 2, seizure list witnesses, in whose presence measurement of kerosene oil was made by the employees of Goenka Brothers and also the employees of M/s. Ram Bilas Raj Ballabh. Some formal witnesses too were examined at trial who brought some documents on record. Mahendra Prasad (PW2), who happens to be the Reporting Officer, was reiterating the early version rendered before the Police about shortage of 73 litres of kerosene oil in black market by the appellants. Assertions were made by the witnesses that the appellant was supplied 200 litres of kerosene oil by the wholesaler and even though there was no evidence of sale of kerosene oil by the appellant, which is evident from the sale register, there was shortage of 73 litres of kerosene oil in the stock. The State has examined the seizure list witnesses, as has been stated above, the employee of Goenka Brothers where the measurement of kerosene oil was carried out and Rameshwar Prasad (PW9), who testified the supply of 200 liters of kerosene oil to the appellant by M/s. Ram Bilas Raj Ballabh, the wholesale dealer in kerosene oil.

4. The contention of the appellant at trial and also before this Court was that while 200 litres of kerosene oil in the container was being transported on a thela, the kerosene got drained from the container and hence there was shortage of 73 litres of kerosene oil in the stock and the trial Court negative the contentions raised on behalf of the appellants and finding the prosecution case to be true, rendered verdict of guilt against the appellant and sentenced him in the

5. Learned counsel for the appellant would place strong reliance on the testimony of P.W. 1 in respect of the Contention raised at Bar about the kerosene oil having got drained due to fall of the drum in the process of its transportation to the premises of the appellant. However, I find that barring bald assertion made by

PW1 and that too in cross-examination, no other witness was examined to lend assurance to the assertion made by him and that apart, even the appellant in his statement rendered under Section 313 of the Code of Criminal Procedure, had not ever raised such plea about drainage of kerosene oil from the drum there being consequential shortage of 73 litres of kerosene oil in the stock. Learned counsel for the appellant would urge that the prosecution was launched against him in the year 1986 and it is after efflux of about 16 years that the appeal has been taken up by the Court and also that the appellant has remained in custody for about a fortnight as under trial prisoner.

6. Since I do not find any infirmity in the findings recorded by the trial Court, while upholding the conviction of the appellant, he is sentenced to the period already undergone by him and also to pay a fine of Rs. 700/-, in default, to undergo rigorous imprisonment for three months and with this modification in the sentence to this extent, this appeal is dismissed.

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