State Govt. Vs. Rammilal

State Govt. Vs. Rammilal

SooperKanoon Citation : sooperkanoon.com/343472

Court : Mumbai

Decided On : Sep-23-1952

Reported in : 1953CriLJ1513

Judge : Hemeon and ;Choudhuri, JJ.

Appellant : State Govt.

Respondent : Rammilal

Judgement :

1. The respondent Rammilal was convicted and sentenced to pay a fine of Rs. 200/- by the First Class Magistrate, Jabalpur, under Section 7, Essential Supplies (Temporary-Powers) Act, 1946 for contravention cf Clauses 14 and 15, C.P. and Berar Sugar Control Order, 1949; but in appeal he was acquitted by the Sessions Judge, Jabalpur. The State Government, Madhya Pradesh, has now appealed against his acquittal.

2. The prosecution case was, briefly stated, as follows. The appellant, who did not hold a licence for the sale of sugar, sold one 'pao' of 'batashas' on 25.5.1950 to Narbad (P.W. 5) for -/10/-, although the controlled rate, as-fixed by the District Magistrate, Jabalpur, on 1.12.1949 was Rs. 1/4/- per seer. The respondent's version was that he had sold for -/5/-betel leaves and melon to Janglaji (P.W. 5), constable, batashas for -/5/- to Narbad who-was accompanied by the constable and that he had given the change of -/6/- to Narbad who had presented to him a

rupee note which he had received from Janglaji.

3. The defence account, which was not supported by Janglaji, was disbelieved by the-Courts below for good reasons, but the learned Sessions Judge acquitted the respondent on the ground that as the Central Provinces and Berar Sugar Control Order related only in virtue of Clause 2(a) to sugar of crystalline structure and not to 'batashas', the District Magistrate was not empowered to pass on 1.12.1949 an order concerning 'batashas' which were not sugar of that type. On 18.10.1949,. however, the Provincial Government substituted for Clause 2 (a) the following clause:

'(a) 'sugar' means-

(i) any sugar of crystalline structure;(ii) any form of sugar containing more than 90 per cent sucrose;

(iii) sugar manufactured by any process including sugar made in vacuum pan factories from cane or 'gur' or palmyra jaggery as well as 'khandsari' sugar, sugarcandy (misri) and 'bura'

4. 'Batashas' which consist entirely or almost entirely of sugar, fall within the ambit of this definition; and the acquittal was, therefore, plainly wrong. The offence took place on 25.5.1950, that is, after the C.P. and Berar Sugar Control Order, 1949 had been amended. It is no doubt true that the order of the District Magistrate referred to the Order as originally notified, but this does not affect the position for the obvious reason that when the-offence took place the amendment had already become part and parcel of the notified Order.

5. The acquittal is set aside, and the respondent is convicted under Section 7, Essential Supplies (Temporary Powers) Act 1946 for contravention of Clauses 14 and 15, C.P. and Berar Sugar Control Order, 1949. The case began over 2 years ago and the respondent is a petty hawker. There is accordingly no question of awarding imprisonment, and It seems to us that the ends of justice will be met now by directing him to pay a small fine. We sentence him to pay a fine of Rs. 25/-. In default of payment, he shall undergo a fortnight's rigorous imprisonment.