

Rulia Ram Vs. Rex

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Court : Allahabad

Decided On : Jun-24-1949

Reported in : AIR1949All716; 1950CriLJ42

Judge : Seth, J.

Appellant : Rulia Ram

Respondent : Rex

Judgement :

ORDER

Seth, J.

1. Applicant Rulia Ram has been convicted of offences alleged to have been constituted by the disobedience of provisions contained in Clauses 2, 3 and 4 of an order promulgated on 29th February 1943, by the District Magistrate of Muzaffarnagar, purporting to act under; powers conferred upon him by the U. P, Bricks Control Ordor, 1916.

2. The case against the applicant was that he, being a brick manufacturer, was allotted a wagon of coal duat, but that he did not maintain a stock register or daily accounts and that he did not submit monthly statements of bricks to the District Supply Officer and further that he sold the bricks manufactured by him without the permit of the District Supply Officer.

3. The facts found by the lower Appellate Court have not been disputed, as indeed they cannot be disputed in a criminal revision. It has, however, been contended that these facts do not constitute an offence and that the various clauses of the order promulgated by the District Magistrate, which are alleged to have been contravened, are ultra vires of the District Magistrate.

4. The order of the District Magistrate pur-ports to have been promulgated under powers conferred upon him by the U. P. Bricks Control Order, 1946. It is not disputed that the validity of the order promulgated by the District Magistrate has to be decided with reference to this Control Order and this Control Order alone, The relevant provisions of the Control Order which is stated to confer the necessary authority on the District Magistrate, is to be found in Cl. 3 of that Order. It reads as follows:

(3) No person to whom any coal dust has been allotted for burning bricks shall sell or dispose of or cause to be sold or disposed of or offer for sale or disposal any brick except.-

(a) if the bricks are to be sold, at a price and in the manner fixed by the District Magistrate, or

(b) if the bricks are to be disposed of otherwise than by sale, in accordance with such conditions as the District Magistrate may by general or special order impose.

5. It is clear that Clause (b) which provides for disposal otherwise than by sale has no application to the present case and the powers of the District Magistrate are to be sought for only in el, (a) aforesaid. The acts and the omissions of the applicant which are alleged to constitute the offence have already been set out and these may again be enumerated as follows : (i) not maintaining a stock register, (ii) not maintaining daily accounts, (iii) not submitting monthly statement of bricks to the District Supply Officer; (iv) selling bricks without the permit of the District Supply Officer.

6. It is manifest from the provisions of Clause (a) of Section 3 of Control Order set out above that, besides the power to fix the price, at which bricks are to be sold,

the only other power that has been conferred on the District Magistrate, under that clause, is to fix 'the manner of sale' of bricks. I have no hesitation in holding that the maintenance of stock registers or daily accounts or submission of monthly statements is not a matter falling within the scope of 'the manner of sale'. All these things may relate to the manner in which the business of a brick manufacturer or a seller of bricks is carried on, They do not, however, relate to the manner of the sale itself. A sale is a transaction by which the property passes from the seller to the buyer and the expression 'manner of sale' could have reference to a single transaction alone. It cannot have any reference, in general, to the business carried on by a brick seller or a brick manufacturer. The maintenance of a stock register or a daily account, which may consist of an account of expenses incurred in the manufacture of bricks only, or a submission of the monthly statement of bricks is quite consistent with there not being a single transaction of sale. This would make it clear that the maintenance of these books or statements is not dependent upon a sale and cannot, therefore, be regarded to be something relating to 'the manner' of sale.

7. The real difficulty of construction is involved in the question whether the regulation requiring permits for sale is a regulation dealing with the manner of sale, learned Counsel for the Crown has strenuously urged that it is, I do not say that this is not a possible interpretation of the section. At the same time, indications are to be found which suggest that this is perhaps not what was intended by the framers of the Control Order. The language used in clause (a) may profitably be contrasted with the language used in Clause (b) of the section. Clause (b) which deals with disposal, otherwise than by sale, empowers the District Magistrate to prescribe conditions in accordance with which the disposal is to be made. The expression 'conditions of sale' or 'conditions of disposal' is certainly wider than the expression 'manner of sale' or 'manner of disposal'. It is, therefore, obvious that a much more restricted power was conferred upon the District Magistrate by Clause (a) than was conferred upon him by Clause (b) of the section.

8. A prohibition to sell without permit is certainly a condition of sale. It is, indeed a condition precedent to the carrying out of the transaction of sale. I find it difficult to hold that a condition precedent to the doing of something can be regarded to

relate to the manner in which that something is to be done. The doing starts after the requirements of the condition have been satisfied and the manner of doing a thing can have reference only to the operation and can have no reference to anything that precedes the operation, I am, therefore, of opinion that a condition precedent to a sale cannot be included within the connotation of the expression 'the manner of sale'.

9. I am supported in this view by an express provision in Clause (a) itself which gives a distinct and separate power to the District Magistrate to regulate the price at which the bricks are to be sold. It is evident, therefore, that the framers of this Order did not consider that the regulation of price was a matter included within the meaning of the expression 'manner of sale.' If the fixing of the price is not to be regarded to be a matter included within the expression 'manner of sale,' I discover no reason to hold that the fixing of the person to whom the sale is to be made can be included within the meaning of that expression, Ordinarily speaking, the price at which certain goods are to be sold and the persons to whom those goods are to be sold may perhaps be deemed to be within the connotation of the expression 'the manner of sale' but the context in which the expression occurs in the section excludes such a wide connotation being attributed to that expression. It is a well recognised rule of interpretation that words and expressions occurring in a statute should be construed with reference to the context in which they occur.

10. Learned Counsel for the Crown has invited my attention to the following passage to be found at page 280 of the 9th Edn. of Maxwell on the Interpretation of Statutes;

The paramount object, in construing penal as well as other statutes, is to ascertain the legislative intent, and the rule of strict construction is not violated by permitting the words to have third full meaning, or the more extensive of two meanings, when best effectuating the intention. They are, indeed, frequently taken in the widest sense, sometimes even in a sense more wide than etymologically belongs or is popularly attached to them, in order to carry out effectually the legislative intent, or, to use Lord Coke's words, to suppress the mischief and advance the remedy.

11. The task of an interpreter is but to ascertain the meaning of the legislator, or to be more accurate, of the language employed by him. When the language employed is ambiguous, certain rules based upon experience and knowledge of human affairs have been evolved for the purpose of ascertaining that meaning. In spite of all such rules the ultimate task is to ascertain the meaning of the legislator so far as possible. The basis of this passage relied upon by the learned Crown counsel is the outcome of human experience that when a statute is enacted to remedy some mischief, the framers of the statute generally desire to confer all powers necessary for the purpose of removing the mischief. This rule has been variously formulated. It has been formulated as in the passage relied upon by the learned Crown counsel. Another way in which it has been formulated is that a statute should be so interpreted as to advance its object and not so as to retard it.

12. Human experience has further shown that legislators are generally solicitous of individual liberties and desire to interfere with them as little as possible. So another rule of interpretation has been evolved according to which a penal statute should be very strictly construed, and whenever the construction is ambiguous, the one in favour of the subject rather than the one in favour of the Crown should be accepted. Having given my anxious consideration to the opposing requirements of these two rules of interpretation, and to the context in which that expression occurs I have come to the conclusion that the power to regulate the manner of sale does not induce the power to prescribe the persona to whom alone the sale may be made by introducing a system of permits.

13. The result, therefore, is that Clauses (2), (3) and U) which the applicant is alleged to have contravened are ultra vires the powers conferred upon the District Magistrate by the Bricks Control Order of 1946. Their contravention is, therefore, not an offence under Section 1 of the Bricks Control Order, 1946. The applicant has, thus, committed no offence and is entitled to an acquittal.

14. This application in revision is allowed. The conviction of the applicant and the sentence awarded to him are set aside and he is acquitted. He need not surrender to his bias His bail bonds are cancelled.

