

Ayub Ali Vs. Emperor

Ayub Ali Vs. Emperor

SooperKanoon Citation : sooperkanoon.com/450155

Court : Allahabad

Decided On : Jan-28-1937

Reported in : AIR1937All423

Appellant : Ayub Ali

Respondent : Emperor

Judgement :

ORDER

Ganga Nath, J.

1. Criminal Revisions Nos. 989 and 990 of 1936 have been heard and disposed of with this Criminal Revision (No. 988 of 1936). All these applications are in revision against conviction under Rule 12(1) for breach of Rule 9(4) and against the sentence under Rule 12(5) of the U.P. Sugarcane Rules, 1934. Rule 9(4) lays down:

No deduction shall be made from the weight of the case on the ground that the cane is improperly stripped or on any other ground whatever:

Provided that where cane is brought bound in bundles and weighed in bundles, a deduction not exceeding half a seer per full maund of cane may be made on account of the weight of the binding materials.

2. This deduction of half a seer per maund is called 'karda'. The net weight of cane in these oases was (1) 11 maunds 20 seers; (2) 13 maunds 30 seers and (3) 13 maunds 30 seers. The applicant was entitled to a deduction of 5 1/2 seers from 11 maunds 20 seers and of 6 1/2 seers from 13 maunds 30 seers. The applicant was liable for payment for 11 maunds 14 1/2 seers in one case and for 13 maunds and 23 1/2 seers in the other two cases. The applicant actually paid to the sugarcane owner for 11 maunds 10 seers instead of 11 maunds 14 1/2 seers and for 13 maunds 20 seers instead of 13 maunds 23 1/2 seers in each of the two remaining cases. The applicant has been convicted for the breach of Rule 9(4) of the U.P. Sugarcane Rules, 1934, and has been sentenced to a fine of Rs. 15 in each case under Rule 12(5) which lays down:

A breach of any other rule not otherwise provided for shall be punishable with fine not exceeding Rs. 300.

3. The applicant relies on Rule 8(2) and contends that he was entitled to the deductions which he had made. Rule 8(2) lays down:

All weighments of sugarcane shall be made by the maund of 82 2/7 lb. and multiples thereof. Where weighment is made on a weighbridge the weight shall be recorded to the nearest quarter maund. Where weighment is made on a beam scale the actual weight shall be recorded.

4. His contention is that he was entitled to an allowance for fractions at the time of weighment and again at the time of payment after having made deductions for karda. Rule 8(2) relates only to weighments; it has nothing to do with the rules for payment with which Rule 9 deals. The weight has to be ascertained only for the purpose of payment. After having once ascertained the weight in accordance with the rules given in Rule 8 there remains no occasion or justification for making again any allowance for any fraction. If the purchaser were entitled to any such allowance, there should have been some mention of it in Rule 9(4) which provides for an allowance for half a seer per full maund in case the cane is brought bound in bundles and weighed in bundles. As has been mentioned in Rule 8(2) where weighment is made on a beam scale the actual weight has to be taken into account. In the case of weighment by beam scale the purchaser is not entitled to

any allowance whatsoever for any fraction, but according to the contention of the applicant he would be entitled to an allowance for fractions after deducting the karda. from the actual weight : I therefore agree with the learned Judge and find that the applicant has committed breach of the rule. There is no force in the application. It is therefore ordered that these applications be rejected and the conviction and sentence be confirmed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com