

Hafizullah Vs. Rex

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Court : Allahabad

Decided On : Aug-10-1948

Reported in : 1949CriLJ123

Judge : Bind Basni Prasad, J.

Appellant : Hafizullah

Respondent : Rex

Judgement :

ORDER

Bind Basni Prasad, J.

1. This is a petition in revision by one Hafizullah who has been convicted under Clause (b) of Sub-section (5) of Section 27, U. P. Sugar Factories Control Act, 1938 (U. P. Act I [I] of 1938) for the contravention of the provisions of Sub-section (8) of Section 18 of the said Act. He has been sentenced to a fine of Rs. 200.

2. Briefly the facts are that village Baithulia is an area which has been declared as reserved area under the provisions of Section 15 of the above Act 'for the purposes of the supply of cane to a particular sugar factory during a particular crushing season.' The accused is the manager of an open pan sugar factory-a factory whose does not come within the purview of the above Act-in village Karmahia. Section 18 (8) provides:

Except with the permission of the Provincial Government, cane grown in a reserved area shall not be purchased by a purchasing agent, or by any person other than the occupier of the factory for which such area has been reserved.

3. It is the prosecution case that the applicant contravened the above provision of law by purchasing some cane grown in Baitbulia which was reserved for the Mahabir Sugar Mills, Siawa Bazar.

4. It is contended on behalf of the applicant that having regard to the terms of Section 27 (5) (b) which prescribes penalty for the contravention of sub-ss. (9) and (4) of a, 18 the applicant has committed no offence and is not liable to any punishment. I am of opinion that the contention is well-founded. Section 27 (5) (b) prescribes that:

If any person knowingly purchases or sells cane in a reserved area in contravention of the provisions of sub-B. (8) or (4) of Section 18, he shall be punishable with imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both.

5. Now it is not disputed that the applicant in the present case did not purchase the deposited cane in the village of Baithulia. He bought it at the gate of his factory in village Karmahia. He would be liable for the penalty prescribed under Section 27 (5) (b) only if he purchased the cane 'in a reserved area.' As the purchase was not made in the reserved area, the provisions of Section 27 (5) (b) are not attracted.

6. It appears that originally the words 'in such area' occurred in Section 18 (3) also between the words 'purchased' and 'by a purchasing agent.' By the amending Act xi [11] of 1940, the words 'in such area' were omitted therefrom, but the consequential amendment was not made in Section 27 (5) (b). Penal laws must be construed strictly and in favour of the subject so far as the language of the statute permits. Whatever may be the intention of the Legislature, the fact remains that as the applicant did not purchase the cane in the reserved area, he is not liable under Section 27 (5) (b) of the above Act.

7. I, therefore, allow the revision, set aside the conviction and the sentence of the applicant and acquit him. The fine, if paid, shall be refunded. A copy of this judgment shall be sent to the Provincial Government for information and such legislative action as it may deem fit and proper.

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