

Gaya Prasad and ors. Vs. Rex.

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Court : Allahabad

Decided On : May-31-1949

Reported in : 1949CriLJ934

Judge : Seth, J.

Appellant : Gaya Prasad and ors.

Respondent : Rex.

Judgement :

ORDER

Seth, J.

1. There are eight applicants in this case. They have all been convicted of an offence under S. i, U. P. Foodgrains (Movement) Control Order, 197 for having contravened the provisions of Section 8 of that Order.

2. the facts found are that a motor truck proceeding on the road from RathPanwari side towards Charkhari State was stopped at Mahoba. The truck was carrying certain food-grains and a few tins of ghee. The case for the prosecution was that the applicants were carry. ing or causing to be carried the foodgrains loaded in the truck from a place within the United Provinces to another place outside the United Provinces.

3. The case set up on behalf of the defence was that the foodgrains were not being carried from any place in the United Provinces, but were being carried from village Uudera in the Oharkhari State to Oharkhari proper in the Oharkhari Btate. The Courts below have recorded no finding on the point whether the defence version that the foodgrains were being taken from village Undera is correct or not. They have proceeded upon the assumption that even if the case set up by the defence be true, an offence within the meaning of Section 3 of the Order has nevertheless been committed.

4. In my opinion the Courts below have misinterpreted Section 3, U. P. Foodgrains (Move, ment) Control Order, 1947. The material portion of 8. 3 runs as follows;

No person shall carry or cause to be carried or offer for carriage-(a) any of the foodgrains mentioned in Sns. 1 and 2 by rail, road or water from any place within the United Provinces to any place outside the United Provinces.

It is significant to notice that this section does not prohibit the carriage of foodgrains through the United Provinces. The prohibition is against carriage from any place in the United Provinces. Now, when something is carried from one place to another it has to pass through all the places that lie in between the two termini of the journey; it cannot be said that that thing is taken from all the intervening places that lie in between the two termini. It is the starting terminus alone from which the object or the thing may be said to be carried, and it is the other terminus alone which can be said to be the place to which it is carried. If it was intended to prohibit the passage of the specified foodgrains from a place outside the United Provinces to another place outside the United Provinces through the United Provinces the section would have made it clear by inserting 'or through' after the word 'from' and before the words 'any place within the United Provinces' occurring in the section, in which case it would have read as follows: from or through any place within the United Provinces to any place outside the United Provinces.

5. It not having been established that the applicants were carrying or causing to be carried the foodgrains from any place within the United Provinces the offence with which they were charged has not been made out. They are, therefore, entitled to an acquittal.

6. This application in revision is allowed. the conviction of the applicants and the sentences awarded to them are set aside. The fines, if realised, shall be refunded. The foodgrains ordered to be forfeited shall also be returned. If they have been sold, and are no longer available for return, the price realised by their Bale shall fee paid to the applicant Gaya Prasad.

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