

Gopi Chand Vs. State

Gopi Chand Vs. State

SooperKanoon Citation : sooperkanoon.com/465115

Court : Allahabad

Decided On : Apr-03-1968

Reported in : 1969CriLJ1153

Judge : H.C.P. Tripathi, J.

Appellant : Gopi Chand

Respondent : State

Judgement :

ORDER

H.C.P. Tripathi, J.

1. Applicant Gopi Chand was convicted by a Magistrate First Class under Section 8/7 of the Essential Commodities Act and sentenced to one year's rigorous imprisonment and a fine of Rs. 1000/-. In default of payment of fine he was directed to undergo three months' further rigorous imprisonment. He came up in appeal before the learned Civil and Sessions Judge Agra. The learned Judge by his order dated September, 21, 1966, remanded the case to the trial Magistrate with a direction that he will record the evidence on the question of relationship between Jadhav Ram and Gopi and also their business relationship....' This revision is directed against the aforesaid order of the Civil and Sessions Judge.

2. I have heard learned Counsel for the applicant and for the State.

3. It appears that the Sessions Judge did not appreciate the scope of Section 428 of the Code of Criminal Procedure. Section 428 is not meant for filling the latches left in the prosecution case or for allowing it to indulge in fishing of evidence. The impugned order of the Judge does not indicate what evidence was to be taken by the trial Magistrate and who were the witnesses to be examined for that purpose. In my opinion the order is unsustainable.

4. Accordingly this revision is allowed. The impugned order of the learned Civil and Sessions Judge is quashed and the lower appellate court is directed to rehear the appeal and decide it on merits.

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