

State Vs. Sagar Mal and ors.

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Court : Allahabad

Decided On : Nov-15-1950

Reported in : AIR1951All515

Judge : Sapru and ;Wanchoo, JJ.

Acts : Essential Supplies (Temporary Powers) Act, 1946 - Sections 7 and 17(2); Cotton Textiles (Control of Movement) Order, 1946 - Sections 3 and 5; Cotton Textiles (Control of Movement) Order, 1948; [Constitution of India](#) - Article 372; [Evidence Act, 1872](#) - Sections 74, 76 and 77

Appeal No. : Criminal Appeal No. 556 of 1949

Appellant : State

Respondent : Sagar Mal and ors.

Advocate for Def. : G.P. Bhargava and ;Suraj Nath Singh, Adv.

Advocate for Pet/Ap. : K.L. Misra, Govt. Adv.

Disposition : Appeal allowed

Judgement :

Wanchoo, J.

1. This is an appeal by the State Government against an order of acquittal by a Magistrate of the first class of Azamgarh in a case under Section 7, Essential Supplies (Temporary Powers) Act XXIV [24] of 1946 for breach of Clause 3, Government of India, Cotton Textiles (Control of Movement) Order, 1946. Originally six persons in all were prosecuted. The present appeal is only against the acquittal of three of them, namely, Sagar Mal, Mul Chand and Girdhar Gopal, opposite parties. It may be mentioned that Mul Chand is the brother and Girdhar Gopal the son of Sagar Mal.

2. The prosecution story was briefly this. There is a firm 'Jiwan Ram Sagar Mal' at Mau in the district of Azamgarh. The opposite parties are the proprietors of that firm. The firm deals in cotton cloth on commission agency basis. It obtained a permit from the Provincial Textile Controller, United Provinces on 1-5-1947 for exporting two bales of handloom cloth, each bale containing 1500 yards from Mau to Delhi. The prosecution case is that one Madan Mohan of Amritsar wanted to send cloth to Delhi from Mau. He, therefore, came to Mau and got into touch with Dwarika Das who has also a firm of commission agency there. Madan Mohan wanted handloom cloth worth about Rs. 15,000 to be sent to Delhi. Dwarika Das told him that he had no permit for sending cloth outside the United Provinces, but added that he would try and find out if anybody else had got such a permit and would be able to send cloth to Delhi. Dwarika Das then went to the shop of Jiwan Earn Sagar Mal and met Sagar Mal and Mul Chand, opposite parties. He told them that he had heard that they had got a permit for Delhi and suggested that if they had nothing of their own to send, he i. e., Dwarika Das might put them in touch with a customer who had come to him. Sagar Mal replied that he had a permit for two bales and Dwarika Das could send cloth under it. On further enquiry, Sagar Mal said that he would charge eight annas per piece for washing and would also charge 1 per cent. as commission leaving the remaining 1 per cent. commission for Dwarika Das. Sagar Mal also told Dwarika Das that 550 Thans could be sent in one bale and that the consignee should be Jiwan Ram Sagar Mal, Delhi. Dwarika Das was directed to prepare bijak in that name and put that name also on the two bales. Thereafter Dwarika Das purchased cloth in the market at Mau. He actually purchased 1052 Thans of Malmal each of ten yards. Thereafter two bales were made out of this cloth, one containing 530 Thans and the other 522 Thans. This

was done on 9-5-1947 and Dwarika Das informed Sagar Mal about midday that the bales were ready. Sagar Mal told him that he would send a man and that, in the meantime Dwarika Das should arrange to send the bales to the railway station. At about 2.30 P. M. the same day, Girdhar Gopal opposite party came to Dwarika Das and asked him whether everything was ready. Dwarika Das then replied that the cloth was ready and gave the bijak to Girdhar Gopal. Thereafter Dwarika Das arranged to send the bales to the railway station where it was arranged that a servant of Sagar Mal would take charge of them. On 10-5-1947, Dwarika Das was informed that the bales had been booked.

3. In the meantime, Sub-Inspector, J. A. Lari of the Anti-Corruption Department came to know that two bales were being sent on a permit, but that they contained more cloth than the quantity allowed under the permit. He, therefore, came to Mau on 11-5-1947 in the morning and waited till the bales were actually loaded in the wagon. Thereafter, when the goods train was taken to the platform, he took steps to get these two bales detained. The two bales were, therefore, detained and kept at the booking-office at Mau. On 13th of May, these bales were opened and the cloth was measured. It was found to be 10520 yards in length.

4. It seems that the news of the detention of these bales on 11-5-1947 leaked out and Dwarika Das enquired from Sagar Mal how that had happened. Sagar Mal told Dwarika Das not to worry and that he would settle the matter. On the 12th of May, a letter was written by Girdhar Gopal to the Station Master at Mau which was received at 3 P. M. In this letter, Girdhar Gopal said that they were surprised to note that the two bales of handloom cloth which had been booked on 10-5-1947 against permit No. 35, dated 1-5-1947 through R. R. Nos. 732037 and 732038 were still lying in the goods-shed and they could not understand why there had been delay in their despatch. A reply to this letter was sent by the Station Master to the effect that two bales had already been booked on 10-5-1947 under two railway receipts and that these two bales had been detained by the Anti-Corruption Department. The other two bales of the firm were still lying in the goods-shed awaiting further instructions for booking. To this Girdhar Gopal sent a reply on 13-5-1947 expressing surprise at the allegation that his firm had sent four bales to the railway station two of which had been booked and detained by the Anti-Corruption

Department and two were still lying in the go-down. Girdhar Gopal went on to say that his firm had sent only two bales which were still lying in the go-down and that the two bales seized by the Anti-Corruption Department had not been sent by his firm. The opposite parties were eventually prosecuted after investigation on the charge already mentioned.

5. All the opposite parties pleaded not guilty. Sagar Mal pleaded that he was a member of the joint family along with the other opposite parties and partner of the firm 'Jiwan Ram Sagar Mal'. He also admitted that he had obtained a permit from the Provincial Textile Controller, Kanpur for exporting two bales each consisting of 1500 yards from Mau to Delhi. He, however, denied that he had sent any goods through Dwarika Das. He also denied that the two bales which had been seized were his or had been sent by him or his firm to the railway station. His case was that the bales that he had sent were different and had been booked through the two railway receipts, but that those bales were still lying in the goods-shed and had not been despatched by the station staff. He further said that the station staff had put marks dishonestly on wrong bales and not on the bales sent by his firm. His case was that he had sent only two bales each of 1500 yards in accordance with the permit he had received. Mul Chand and Girdhar Gopal stated exactly the same as Sagar Mal, their defence being common.

6. Later a written statement was filed on behalf of the opposite parties. It was said in this that Dwarika Das having no permit to send cloth outside Mau, had managed, in collusion with the station staff, to smuggle his goods as the goods of Sagar Mal wrongly in the name of that firm. Before, however, this design could succeed, two bales containing 1500 yards each happened to be sent by the opposite parties to the railway station on 10-5-1947. This upset the plan of Dwarika Das and those members of the railway staff with whom he was in collusion and the matter having leaked out, the police captured the two bales before their despatch. The rest of the written statement is immaterial because it consists, more or less, of argumentative matter.

7. There are certain facts which are established beyond all dispute in this case. These facts are that two bales containing handloom cloth measuring over 10,000

yards were being sent from Mau to Delhi. These bales bore the private mark 'Jiwan Ram Sagar Mal' and were addressed to self. They also bore railway marks 'M. U. J. D. L. I 31/1' and 'M. U. J. D. L. I 38/1'. These bales were being actually despatched when they were detained and taken out of the goods wagon in which they had been put. The railway receipts relating to these bales bearing railway marks 'M. U. J. D. L. I 31/1 and M. U. J. D. L. I 38/1' were in the possession of the opposite parties' firm, Jiwan Ram Sagar Mal. The permit on the basis of which the two railway receipts were issued was No. 35, dated 1-5-1947. That permit allowed export of only 3000 yards of handloom cloth. On these facts, whoever was sending these two bales was certainly doing it against the terms of the permit. The main question, therefore, that has to be decided is whether these bales were being sent by the opposite parties. [His Lordship after going through the evidence found that the opposite parties were responsible for the booking of the bales and that they were booked by Deonath Singh, a servant of the opposite parties, on 10th May on their behalf and were actually going to Delhi when they were taken out of the goods wagon on 11th May. His Lordship then continued.]

8. It is with this back-ground that we have to consider the statement of Dwarika Das. He said that one Madan Mohan of Amritsar wanted to send cloth worth about Rs. 15,000 or so to Delhi. As he had no permit, he arranged with Sagar Mal to send cloth on Sagar Mal's permit. Sagar Mal was to get 1 per cent. commission and eight annas per Than. A few days later when the purchase was complete, he informed Sagar Mal that the bales were ready. Then Girdhar Gopal came to him at about 2.30 P. M. and he gave the bijak to Girdhar Gopal and sent the two bales to the railway station as directed by Girdhar Gopal where they were to be received by Girdhar Gopal's servant. There is also the evidence of Madan Mohan which corroborates Dwarika Das's statement that Dwarika Das had arranged to send the goods on the permit of Sagar Mal. There is, in our opinion, no reason for disbelieving the evidence of these two witnesses. It has been urged that Dwarika Das was an accomplice in the crime which was committed and, therefore, his evidence should be accepted with great caution. There is no material on the basis of which we can hold that Dwarika Das was an accomplice. He would have been one, if he knew that the permit which Sagar Mal was going to use for sending these two bales was for 3000 yards only. But his statement is that Sagar Mal did

not show the permit to him and he did not know for how many yards the permit had been issued. His explanation for not demanding to see the permit is also satisfactory for he said that Sagar Mal was a big man and if he had demanded the permit from him, Sagar Mal would not have given it. There is, therefore, no proof that Dwarika Das knew that Sagar Mal could only send 3000 yards on the permit with him. Dwarika Das's evidence is that Sagar Mal himself told him that he could send 550 Thans in each bale. Obviously a Than is of 10 yards and Sagar Mal would show that the bales would contain more than the amount permissible under the permit. Dwarika Das, however, did not know that and it would be only natural for him to assume that Sagar Mal would be acting within the law. It was suggested that even according to Dwarika Das, Sagar Mal merely permitted him to send 1100 Thans in the two bales and that Sagar Mal himself did not know that Dwarika Das would put in roughly 1100 Thans of cloth in the bales. But Sagar Mal is a man of business and the bijak was given to Girdhar Gopal before the bales were sent to the railway station. The opposite parties could not have failed then to notice that the bales contained much more than 3000 yards for they must be knowing that the length of one Than was 10 yards. The price should also have put them on their guard as to how much cloth was being sent. In any case, it is absurd to say that a Than would be less than even three yards in length for the bijak showed that 1052 Thans were being sent. We are, therefore, satisfied that Dwarika Das did not know how much cloth could be sent on the permit of Sagar Mal and, therefore, he is not an accomplice. The opposite parties on the other hand knew very well that the bales contained such more than 3000 yards of cloth.

9. The evidence of Dwarika Das has further been attacked on account of certain discrepancies and improbabilities. It appears that Dwarika Das had no particular dealing with Sagar Mal before this transaction. It is argued that, under these circumstances, he would not go to Sagar Mal and Sagar Mal would not oblige him. It seems to us that there is no reason why he should not have gone to Sagar Mal when he knew that Sagar Mal had a permit, even though he did not have dealings with him from before. As for Sagar Mal, we do not see why he should not agree to oblige Dwarika Das, if he was getting a profit out of the transaction. It is clear that Sagar Mal was getting Rs. 526 for washing charges when he had to spend nothing whatsoever on this item. He was also to get 1 per cent. commission. Normally, 2

per cent. commission goes to commission agents and the commission, in this case, at 1 per cent. comes to Rs. 150 on goods worth Rs. 15,000. If Sagar Mal had sent 3000 yards of cloth, he would have got much less than Rs. 150 as commission agency profit on that transaction. By obliging Dwarika Das, he was getting Rs. 526 plus Rs. 150, that is, a total of Rs. 676 as his profit. We, therefore, see nothing improbable in Sagar Mal obliging Dwarika Das in the manner in which, Dwarika Das says, he did.

10. Then our attention was drawn to the fact that Dwarika Das took very little care to see that the bales reached the proper hands at the railway station. The evidence of Dwarika Das, on this point, is somewhat thin for he says that he sent no one with the Thelawala who took the bales and was merely satisfied that the bales had been handed over to the servant of Sagar Mal at the railway station on the word of mouth of the Thelawala. This would not have been impossible to believe, if Dwarika Das had given the name of the Thelawala for it is well known that Thelawalas are greatly trusted in these matters. But as Dwarika Das was unable to give the name of the Thelawala, his explanation certainly appears to be thin. It may be that he may have himself gone to the goods-shed when the goods were booked. But he does not want to admit that on account of the defence that there was collusion between him and the railway staff. We are, however, satisfied that the goods did reach the railway station at the direction given by the opposite parties to Dwarika Das and it is not very material whether Dwarika Das himself went to the station with the goods or sent them through some Thelawala.

11. It has further been urged that Dwarika Das worked the whole thing through the station staff. It is true that a copy of the permit is sent to the railway station. But it appears from the evidence of the railway staff that the person who books goods on such a permit brings his copy of the permit to the railway station and gets an endorsement made on it of the fact of booking, as was the case here. If that is so, it is impossible that Dwarika Das could have taken the permit of Sagar Mal to the station. Further if Dwarika Das was trying to work his thing without the help of Sagar Mal, he would have been in a rather difficult position for the railway receipts were with Sagar Mal. He could have no guarantee that he would be able to get the delivery of the goods at Delhi and if he failed in that, he would lose Rs. 15,000 and

the goods would go to the firm of Jiwan Ram Sagar Mal or their nominee in Delhi. We are satisfied, therefore, that Dwarika Das could mover have done this thing merely in collusion with the railway staff and that the opposite parties must have helped Dwarika Das in this.

12. Then attention was drawn to certain discrepancies between the statements of Dwarika Das and Madan Mohan, For example, Dwarika Das said that there was no firm of the name of Dhanpat Rai Madan Mohan in Delhi, though this was the name of the firm given by Madan Mohan to Dwarika Das to which the goods were to be sent in Delhi. Further Dwarika Das said that he paid Sagar Mal Rs. 526 in the presence of Madan Mohan. Madan Mohan, on the other hand, said that there was a firm of the name of Dhanpat Rai Madan Mohan in Delhi. Further Madan Mohan said that no money was paid to Sagar Mal by Dwarika Das in his presence. So far as the first discrepancy is concerned, it seems to us that Dwarika Das must have made some mistake and we see no reason to disbelieve the evidence of Madan Mohan that there is a firm of the name of Dhanpat Rai Madan Mohan in Delhi. As for the second discrepancy, it is, in our opinion, not very material and does not affect the main facts of the case. We, therefore, have no hesitation in believing the evidence of Dwarika Das and Madan Mohan and coming to the conclusion that these two bales were sent on the permit obtained by the firm of the opposite parties with their consent and knowledge. We are also satisfied that all the three opposite parties knew that more than 3000 yards of cloth were being sent on a permit which allowed them to send only 3000 yards. We are also satisfied that the main part in this matter was taken by Sagar Mal who is the eldest member of the joint family while Girdhar Gopal and Mul Chand took subordinate parts.

13. That leaves the evidence of Sultan Ahmad and Abdul Azim as to the visit of Girdhar Gopal to Dwarika Das on 9th May. We are not much impressed with their evidence and would not rely on it. We are, however, satisfied that even if their evidence is left out, the rest of the evidence is enough to prove the prosecution story.

14. We need not refer in detail to the evidence of other witnesses because there is nothing in their evidence which is in favour of that opposite parties and it is, more or less, of a formal nature to prove facts which are undoubted.

15. We now turn to the question whether, on these facts, any offence has been made out against the opposite parties. The contention, on their behalf, is that they cannot be convicted now because it is no longer an offence to send handloom cloth by railway and also because the Order of 1946 relating to movement of cotton textiles has been replaced by a similar Order of 1948. The argument is that as that temporary legislation has come to an end by efflux of time, no conviction is possible of offences committed when the legislation was in force and Section 6, General Clauses Act (X [10] of 1897) has no application to this case. We see no force in this argument for the reasons set out below.

16. The Government of India, Cotton Textiles (Control of Movement) Order, 1946, was passed on 5-1-1946 under the Defence of India Rules which were then in force. The Defence of India Act and Rules came to an end on 30-9-1946. On 25-9-1946, Ordinance No. XVIII [18] of 1946 was promulgated by the Government of India. Section 3 of that Ordinance gave power to the Central Government to control production, supply and distribution of certain essential commodities which included cotton textiles. Section 5 of the Ordinance provided that until other provisions were made under the Ordinance, any order, whether notified or not, made in respect of any matter specified in Section 3, which was in force immediately before the commencement of this Ordinance shall, notwithstanding the expiration of the said rules, continue in force so far as consistent with this Ordinance and be deemed to be an order made under Section 3. This provision, therefore, clearly continued the Order of 1946 which we have mentioned above. Then followed the Essential Supplies (Temporary Powers) Act, XXIV [24] of 1946 which came into force in November 1946. This Act was similar to the Ordinance mentioned above. It repealed the Essential Supplies (Temporary Powers) Ordinance, 1946. But in Section 17 (2), it provided that :

'Any order made or deemed to be made under the said Ordinance and in force immediately before the commencement of this Act shall continue in force and be

deemed to be an order made under this Act. . . . !

As the Order of 1946 had been continued by Ordinance No. XVIII [18] of 1946, it remained in force by virtue of Section 17 (2) of this Act.

17. It may be mentioned that the Essential Supplies (Temporary Powers) Act XXIV [24] of 1946 is still in force. It was originally enacted under the India (Central Government and Legislature) Act, 1946 (9 and 10 Geo. VII Ch. 39). That Act gave power to the Central Government for a period upto five years from 1-4-1946. The Essential Supplies (Temporary Powers) Act, 1946, has been continued from year to year by the Notification of the Governor-General in 1947 and by resolutions of the Constituent Assembly (Legislative) in March 1948 and March 1949. It has further been continued by the Adaptation of Laws Order under Article 372 of the [Constitution of India](#). It was urged that this could not be done merely by adaptation. This argument has, however, no force because Article 372(2) not only provides for adaptation but also for modification whether by way of repeal or amendment as may be necessary or expedient. Therefore, the Essential Supplies Act of 1946 is still continuing and has not ceased to be a law of the land.

18. The charge against the opposite parties is that they are guilty under Section 7, Essential Supplies Act for breach of an Order made under Section 3 of the same Act. Now the Government of India, Cotton Textiles (Control of Movement) Order of 1946 was an Order deemed to have been made under Section 3 of that Act. The penal section under which the opposite parties will be convicted still continues and the offence has not disappeared. The breach with which they are charged is of Clause 3 of the Order of 1946 which prohibits transport of cloth by rail except on a general or special permit. The argument, on behalf of the opposite parties is that this Order of 1946 has been replaced by the Order of 1948 and, therefore, they cannot be convicted at all. The Order of 1948 came into force on 10-9-1948. In that Order also, Clause 3 provides that no cloth would be transported by rail except on a general or special transport permit issued by the Textile Commissioner. What, therefore, was an offence under the Order of 1946, namely, transport of cloth by rail except on a general special transport permit is still an offence under the Order of 1948 and is still punishable under Section 7 of the Act

which has continued all along. The repeal of the Order of 1946 by the Order of 1948 does not in our opinion, make any difference for Clause 10 of the Order of 1948 provides that :

' anything done or deemed to have been done under any provision of the said order (i. e., Order of 1946) shall be deemed to have been done under the corresponding provision of this order

Thus where there is a corresponding provision in the Order of 1948, anything done under the Order of 1946 must be deemed to have been done under the Order of 1948. We have already pointed out that there is a corresponding provision in the Order of 1948 making transport of cloth, without a general or special permit, an offence. Therefore, a prosecution which began under the Order of 1946, as is the case before us, will be taken to be a prosecution under the Order of 1948 as there is a corresponding provision in the Order of 1948 for prosecution (sic) without a general or special permit. It was, therefore, perfectly correct for the Magistrate to go ahead with the case against the opposite parties even after the coming into force of the Order of 10-9-1948. All that was required was, a formal change in the charge by substituting the Order of 1948 for the Order of 1946.

19. The opposite parties, however, rely on a Notification which was made on 22-1-1949. By this Notification, a clause was inserted in general permit No. 1 which had been issued on 10-9-1948 simultaneously with the Order of 1948. By this clause, which is 3-A, transport of handloom cloth was permitted under this general permit. It is, therefore, being urged that as every body is now permitted by this general permit to transport handloom cloth, the opposite parties cannot be convicted for breach of the special permit which they held in May 1947. We are of opinion that this argument cannot prevail. The law stands as it was in 1947. All that has happened is that by an executive order, the Textile Commissioner has, as from 22-1-1949, included 'handloom cloth' within general permit No. 1. That, however, merely means that after that date, handloom cloth can be transported without the necessity of obtaining a special permit, because the same has been included in a general permit. But that does not mean that the law has come to an end by efflux of time and, therefore, no one can be prosecuted for a breach of the law which

took place before 22-1-1949. The law being today what it was in 1947, when the offence was committed, the opposite parties can be convicted of transporting by rail handloom cloth against the terms of the special permit they had obtained and the issue of a general permit by the Textile Commissioner in January, 1949, cannot have the effect of wiping out the offence which was committed in 1947, when the law stands today as it was then. We are, therefore, of opinion that the case of *Bansgopal v. Emperor* : AIR1933 All669 , has no application to the facts of the present case.

20. Then it has been urged that the sanction to prosecute has not been proved in this case and that, in any case, the sanctioning authority did not apply its mind to the case before it gave the sanction and that the District Magistrate, who had given the sanction, did not have the power to do so.

21. So far as the proof of the sanction is concerned, it is true that no one appeared in the witness-box to formally prove the sanction. In this case, however, the sanction appears on the charge-sheet submitted by the police. The original sanction is, therefore, available to the Court and is a public document. A public document can always be proved by production of certified copies prepared under Section 76, Evidence Act, as provided in Section 77 of the same Act. As the original was produced in Court, we do not think that any formal proof was necessary.

22. The next point urged is that the sanctioning authority, namely, the District Magistrate did not apply his mind to the facts of the case as he has simply said 'Prosecution sanctioned'. There is, however, no form prescribed for according sanction. Where, therefore, the sanction appears on the original charge-sheet, which the District Magistrate must have perused before he gave the sanction, the inference may be drawn that the District Magistrate applied his mind to the facts of the case before he ordered prosecution. The facts of the case are all given briefly in the charge-sheet and the offence that is made out is also mentioned and the order sanctioning prosecution appears on the same charge-sheet. It cannot, therefore, be said that the District Magistrate did not apply his mind to the facts of the case before he ordered prosecution of the opposite parties.

23. Another point taken in this connection is that the District Magistrate had not been authorised to give sanction as required by Clause 10 of the Order of 1946. There is, however, no force in this argument because the District Magistrate was authorised by Notifn. No. 102/15-TA/47 published at p. 862 in the Gazette of India, Part I S. 1, of 21-6-1947. This Notification is in pursuance of Clause 10, Cotton Textiles (Control of Movement) Order, 1946, as continued in force by Section 17, Essential Supplies (Temporary Powers) Act, 1946 (XXIV [24] of 1946). The charge-sheet in this case was submitted on 23-8-1947 and the sanction was given by the District Magistrate thereafter.

24. The last point that is urged is that the notice of the Order of 1946 has not been proved to be given as mentioned in that Order. That Order says that its notice would be given by publication of the same in the Gazette of India and by the issue of a press note and the argument is that there was no proof that any press note was issued. It may be accepted for argument's sake that there was no press note. But even if no press note was issued, that would not make the Order invalid. In such a case the opposite parties would not be presumed with the knowledge of that Order and knowledge on their part would have to be proved. In this case, there can be no doubt that the opposite parties had knowledge of the Order of 1946 because they themselves obtained a permit under that Order from the Textile Commissioner.

25. We are, therefore, of opinion that the order of the Magistrate acquitting the opposite parties is perverse and should be set aside. The opposite parties are clearly guilty under Section 7, Essential Supplies (Temporary Powers) Act, XXIV [24] of 1946 read with Clause 3 (iii), Government of India, Cotton Textiles (Control of Movement) Order, 1946 and further read with Clause 3 (iii) and Clause 10, Cotton Textiles (Control of Movement) Order of 1948.

26. We now come to the question of sentence. The prime mover in this case was Sagar Mal. We consider that his act was of an anti-social nature and that a person of his position should not be dealt with lightly. We have, however, taken into account the fact that since January 1949, the transport of handloom cloth is free under a general permit. We, therefore, think that a sentence of six months'

rigorous imprisonment and a fine of Rs. 1,000 would be sufficient punishment so far as Sagar Mal is concerned. If the general permit had not been issued in January, 1949, we may have given a longer sentence of imprisonment to Sagar Mal. As for Mul Chand and Girdhar Gopal, they took subordinate parts in the affair and we think that a sentence of fine of Rs. 1000 in the case of each would meet the ends of justice.

27. We, therefore, allow the appeal, set aside the order of the Court below and convict the three opposite parties, Sagar Mal, Mulchand and Girdhar Gopal, under Section 7, Essential Supplies (Temporary Powers) Act XXIV [24] of 1946 read with Clause 3 (iii), Government of India, Cotton Textiles (Control of Movement) Order, 1946 and further read with Clause 3 (iii) and Clause 10, Cotton Textiles (Control of Movement) Order of 1948. Sagar Mal is sentenced to six months' rigorous imprisonment and a fine of Rs. 1000. In default of payment of fine, he will undergo further rigorous imprisonment for six months. Girdhar Gopal and Mul Chand are sentenced each to a fine of Rs. 1,000. In default of payment of fine each of them will undergo six months rigorous imprisonment. They are given one month's time within which to deposit the fine. Sagar Mal is on bail and will surrender at once to serve out the sentence passed on him.

28. The two bales which are the subject-matter of the charge will be forfeited and sold and the price credited to the State. The other two bales which were sent to the goods-shed on 12-5-1947, by the firm of the opposite parties in order to manufacture a false defence for themselves are not the subject-matter of the charge and will be returned to the opposite parties.