

Ram Dhani Vs. State of U.P.

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Court : Allahabad

Decided On : Aug-21-1999

Reported in : 2000CriLJ3860

Judge : K.D. Shahi, J.

Acts : [Essential Commodities Act, 1955](#) - Sections 3 and 7

Appeal No. : Crl. Revn. No. 1578 of 1984

Appellant : Ram Dhani

Respondent : State of U.P.

Advocate for Def. : A.G.A.

Advocate for Pet/Ap. : Ramesh Singh and ;Sharda Chauhan, Advs.

Judgement :

ORDER

K.D. Shahi, J.

1. This is a revision against the judgment and order dated 20-7-1984 passed by Sri Rajendra Nath, Special Judge, Gorakhpur in Criminal Appeal No. 76 of 1984 (Ram Dhani v. State) where the revisionist has been convicted under Section 3/7 of Essential Commodities Act and sentenced to undergo 6 months R.I. and to pay

a fine of Rs. 2,000/- (rupees two thousand) and in default of payment of fine further to undergo 3 months R.I.

2. The brief facts of the case are that a raid was made on 22-12-1981 by Sri Rajiv Banerji, the Marketing Inspector at the house of the revisionist in the presence of public witnesses and food grains were found stored on the Veranda of the revisionist for sale. A complaint was filed against the revisionist. The revisionist was convicted by the learned lower Court and on appeal the conviction was upheld by the learned Special Judge, Gorakhpur, against which order the present revision has been preferred.

3. The revisionist has challenged both the judgments passed by learned lower Court as well as learned Appellate Court on the ground that the food grains were lying in front of house of the revisionist and the same belonged to one Sri Satya Narayan. The theory of the revisionist was found to be false and fictitious by the learned Magistrate and he gave a detailed finding to this effect. In this revision it was alleged that the food grains belonged to Satya Narayan. In this regard, it was held by the learned Magistrate that Satya Narayan and Ram Samuj were of the same family. A Khatauni has been filed to that effect also. The learned Magistrate gave a categorical finding that at the time of preparation of the recovery memo neither Ram Samuj nor the accused ever stated that the food grains belonged to Satya Narayan or himself. If the weighing machine and other articles to weigh the food grain were found at the time of recovery, the presumption shall be of a dealer. It is true that there is no evidence that if the accused/ revisionist was not a food dealer, he was a commission agent. What appears is that the accused was dealing in food grains without licence. In appeal this finding was also fortified. This revisional Court will not go in the findings of fact. No illegality or irregularity appears in the judgments passed by the learned Courts below.

4. The raid was conducted in the year 1981 and the accused/revisionist was convicted in 1984. His appeal was also dismissed in the same year. It was argued by the learned counsel for the revisionist that this revision has been preferred in this Court on 6-8-1984 and since then he is facing the pains of this protracted litigation. My attention was drawn on the ruling reported in 1993 (3) Crimes page

1969, Niranjana v. State of Haryana Criminal Appeal No. 304-SB of 1986, decided on 4-9-1992, in which under the Essential Commodities Act, it was held that where the appellant has been facing long drawn prosecution for seven years he was entitled to benefit of probationary provisions. My attention was also drawn on the ruling of Orissa High Court reported in 1991 (2) Crimes 248, Simadhari Nara Singha Murthy v. State of Orissa (Criminal Appeal No. 58 of 1984 decided on 26-10-1990). where in it was held that normally a person convicted under Essential Commodities Act should be imprisoned but when eight years have passed then sending accused to prison would have no effect on others to prevent them from committing same offence. In the ruling reported in 1987 Cri LJ page 1309 Kamla Prasad v. State of Bihar (Criminal Revision No. 576 of 1982 decided on 16-4-1986), it was held that where the accused is only earning member in his family and is near about 50 years of age and has lived in jail for sometimes, the period of imprisonment already spent in jail will meet the ends of justice.

5. I have considered all the aspects of the case and I fully agree that after 15 years no fruitful purpose shall be served by sending the revisionist to jail therefore, I direct that the revisionist instead of being sentenced to jail, be released on probation of good conduct. It is, therefore, ordered that the revisionist be released on probation for a period of six months upon his executing a personal bond of Rs. 5,000/- (five thousand) with two sureties each in the like amount before the learned Chief Judicial Magistrate, Gorakhpur with undertaking to keep the peace and be of good behaviour for a period of six months aforesaid and to appear to receive and serve the sentence in the meantime if called upon to do so by the learned trial Court. The amount of fine if deposited shall be appropriated by the State as cost of proceedings taken against the revisionist.

6. The revision is dismissed with the above directions.