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State Vs. Mithalal

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Court : Madhya Pradesh

Decided On : Oct-28-1955

Reported in : 1957CriLJ197

Judge : Chaturvedi and ;Nevaskar, JJ.

Appellant : State

Respondent : Mithalal

Judgement :

Nevaskar, J.

1. Accused Chhotelal, Munim of accused Mithalal, proprietor of Messrs Pratap Stores on 20-6-1950 was alleged to have sold 7 yards of cotton cloth of the variety known as 'long Cloth' to Balwansingh who was a bogus purchaser at the rate of Rs, 1-12-0 when the control price was Rs, 1-6-9. In the cash memo issued from the shop, it is said, the details as required by Clause 18, Madhya Bharat Cloth and Yarn Dealers Licensing Order, 1948 were not mentioned. The shop was raided as soon as the trap was successful. From the cash-box of the shop were recovered marked currency notes given by the bogus purchaser Balwantsingh to accused Chhotalal. Cloth was seized from the possession of Balwantsingh. Punchanama was made by the Textile Inspector attached to the office Of the Department Of Civil Supplies.

2. On these facts, the accused were prosecuted and on a finding by the Additional District Magistrate that the facts alleged by the prosecution were proved they were convicted. Each of them was sentenced to pay a fine of Rs. 750 for the contravention of Clause 15(1) of the Textile Control Order, 1948 and Rs. 250 for the contravention of Clause 18 of the Madhya Bharat Cotton Cloth and Yarn Dealers Licensing Order, 1949,

3. On appeal, the conviction was set aside and the accused were acquitted mainly on the ground that the Madhya Bharat Essential Supplies (Temporary Powers) Act, 1948 had been repealed by the Essential Supplies (Temporary Powers) Amendment Act No. 52 of 1950 (Central Act) which extended the application of Essential Supplies (Temporary Powers) Act No. 24 of 1946 to Part B States and that there was no provision in the amending Act for the continuation of the pending prosecutions.

4. The present appeal is directed against the order of acquittal based on the aforesaid view of the learned Sessions Judge, Indore.

5. The point involved in this appeal was examined by this Court in State v. Fatehchand, Criminal Ref. No. 80 of 1953 : Madh BLJ 1955 HCR 142 : AIR 1955 Madh B 82 (A) and it was held in that case that the pending prosecutions under the Madhya, Bharat Essential Supplies (Temporary Powers) Act, 1948 are not affected by this repeal and by extension of Essential Supplies (Temporary Powers) Act. No. 24 of 1946 to Part B States, In that decision this Court had mainly relied upon the consideration that Section 6, General Clauses Act either in principle or in terms applies in such cases. It is there held that a penal liability incurred under the pre-existing law cannot be held to be wiped out by the repeal unless there are specific provisions In the repealing Act to that effect,

6. Mr. Gupta for the accused concedes that the aforesaid decision applies to the present case and that the order of acquittal is not entitled to stand in view of that decision.

7. The result is that the appeal is allowed and the case is sent-back to the lower appellate Court for hearing & disposal in accordance with law on other grounds left

undetermined by it.

Chaturvedi, J.

8. I agree.

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