

Bajnath and ors. Vs. the State

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Court : Madhya Pradesh

Decided On : Aug-29-1952

Reported in : 1953CriLJ1389

Judge : Dixit, J.

Appellant : Bajnath and ors.

Respondent : The State

Judgement :

ORDER

Dixit, J.

1. The applicants before me were tried by the Sub-Divisional Magistrate, Picher of an offence under Section 46(1), 'Ayat Niryat Kar Vidhan' (Import Export Taxation Act.) and found guilty. They were each sentenced to imprisonment till the rising of the Court and to a fine of Rs. 50/-. The learned Magistrate also passed an order confiscating to the State the carts said to have been employed by the applicant in the commission of the offence. In appeal the learned Sessions Judge of Guna affirmed the convictions and sentences but set aside the order of the trial Magistrate with regard to the forfeiture of the carts. The applicants have now come up in revision to this Court.

2. The charge against the applicants was that on the morning of 20.12.50 they exported from village Nand Pura in Madhya Bharat to Jhansi in Uttar Pradesh in four carts 47 maunds and nine seers of Tilli and one maund of Urad without a permit in that behalf from the competent authority and thus contravened Notification issued under Section 9 of the Act and published in the Madhya Bharat Gazette dated 14.8.48. It is said that under this Notification the export of Urad and Tilli without a permit was prohibited.

3. The convictions and sentences of the applicants must be set aside for the sole reason that the Notification of which they are alleged to have committed a breach was never produced in the case and has not been proved. It has already been pointed out by a Division Bench in the case of - The State v. Bachu Lal (A) and also by a Single Bench in - Panna Lal v. The State AIR 1953 Madh B 84 (B) that judicial notice of notifications such is the one in the present case cannot be taken. Such notifications must be produced and proved in accordance with the provisions of the Evidence Act. I must observe that I cannot view with the equanimity the tendency prevailing in the lower Courts of just taking it for granted that a notification of which the accused persons are alleged to have contravened exists.

4. For the above reasons this petition is accepted! and the convictions and sentences awarded to the applicants are set aside. The amount of fine, if already paid, be refunded to them.