

Jagmohan Vs. State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : May-09-1995

Reported in : 1996CriLJ2230

Judge : Fakhruddin, J.

Acts : Madhya Pradesh Khadya Padarth (Khan-Paan) Sthaiana Dwara Mulya Pradarshan Aadesh, 1983; [Essential Commodities Act, 1955](#) - Sections 3 and 7

Appeal No. : Cri. Appeal No. 102 of 1987

Appellant : Jagmohan

Respondent : State of Madhya Pradesh

Advocate for Def. : Arvind Dudawat, Addl. Govt. Adv.

Advocate for Pet/Ap. : B. Raj Sharma, Adv.

Disposition : Appeal allowed

Judgement :

Fakhruddin, J.

1. This appeal has been directed against the judgment and order passed by the Special Judge, Guna on 22-4-1987 in Special Cr. Case No. 3/86 convicting the appellant under Section 3/7 of the [Essential Commodities Act, 1955](#) and

sentencing him to six month's R.1. with a fine of Rs. 1,000/- and in default of payment of fine further rigorous imprisonment for one month.

2. The prosecution alleges that on 3-9-1985, Mahendra Raghuwanshi, Asstt. Food Inspector along with Laxmi Narain, Food Inspector inspected the appellant's Tea-Stall, known as 'Babli-Tea Stall, where the appellant was present and selling sweetmeats. These officials found infringement of exhibition of price-list, which is supposed to be exhibited by the vendor or seller of the article of food. It is further alleged that the Gulab-Jamuns were prepared and kept at the shop of the accused-appellant and were being sold at that time, but their prices were not included in the daily price-list. There was no date on the said price-list. It is alleged that District Magistrate, Guna has fixed rates of certain articles but different higher rates were being charged from the customers. It is further alleged that Mahendrasingh Ranghuvanshi, Asstt. Food Inspector asked the accused-appellant to produce the accounts of sale and purchase, but the appellant showed his inability. The Food Inspector then prepared the Panchanama Ex. P/4 and submitted his report Ex.P/1. The Asstt. Food Inspector after completion of usual formalities, sent a report to the Police Station, Guna for registration of a case against the appellant. The Police Station Guna registered the case as per Ex.P/7.

3. The usual investigation was done. The appellant-accused was arrested and the challan was submitted against him. The accused-appellant pleaded not guilty and contended false implication.

4. The prosecution examined Mahendrasingh Ranghuvanshi (P.W. 1), Ram Singh (P.W. 2), Rajesh (P.W. 3), Laxmi Narain (P.W. 4), K.L. Chakravarti (P.W. 5), Shyambihari Vyas (P.W. 6) and Prakash Singh (P.W. 7) before the trial Court.

5. The Special Judge, Guna convicted the appellant and found him guilty for the aforesaid offence. Against the said conviction and sentence the appellant has preferred this appeal before this Court.

6. The prosecution has alleged the violation of provision of M.P. Khadya Padarth (Khan-Paan) Sthaiana Dwara Mulya Pradarshan Aadesh, 1983 read with Section 3/7 of the [Essential Commodities Act, 1955](#).

7. The charge-sheet framed against the appellant is as under:-

(i) that the price-list was not in the prescribed proforma and the date was not mentioned;

(ii) that the sweets were not sold on the price which was fixed by the District Magistrate, Guna and their price-list was not exhibited while they were being sold;

(iii) that the accounts of sale and purchase yearly was not prepared and the same was not submitted when it was required at the time of investigation.

8. So far as first charge is concerned, there is document Ex.P/2 on record. P.W. 1 Mahendrasingh Ranghuvanshi, Asstt. Food Inspector in para 2 of his statement has stated that Ex.P/2 is the same copy of the price-list which was exhibited at the shop of the appellant. He further states that there is no proforma for the price-list and he has admitted that he had wrongly objected in that regard. What he has stated in para 2 of his statement is that:

^ftl izdkj oks ewY; lwph Fkhmldh gwcgw udy iz-ih- 2 gS A ewY; lwph ds fy;s okLro esa dksbZ fu;r izksQkekZugh gS fu;r izk:i ls ewY; lwph u gksus dk vk{ksi eSus xyr mBk;k gS A**

In view of this statement of the star witness of the prosecution, there is no contravention.

9. So far as the second charge is concerned, this charge is again falsified because Ex.P/2 is the price-list and the same has been exhibited. So far as the price is concerned, there is an order of Food Officer for Collector, vide Order No. Q/Khadhya/Civil/ Supply/Bhav, Guna : dated 20-8-1985, but under which provisions of law this order has been promulgated is not mentioned. No Gazette Notification nor any evidence has been filed to the effect, no authorities have been quoted. How these rates were arrived at is also not clear. In last para No. 4 P.W.1 Mahendrasingh Ranghuvanshi admits that the list of the rates which were issued by the Collector were given to confectioners and hotel association.

10. Mahendrasingh Ranghuvanshi (P.W. 1) Asstt. Food Inspector has admitted in his evidence that on making an inquiry he did not find that the accused/ appellant was selling the sweets on a higher price. He admits that the accused was selling the sweets on the price which was fixed by the Collector/What he has stated in his evidence is that:-

^eSus tkp es ugh ik;k Fkk fddysDVj us tks Hkko lwph fu/kkZfjr dh Fkh mlls T;knk es vfHk;wDr feBkbZcsap jgk Fkk A**

11-12. So far as the third charge is concerned, P.W. 1 Mahendrasingh Ranghuvanshi has stated in his evidence that he orally demanded the accounts of sale and purchase for inspection. He did not demand the same in writing. He further states that Ramesh is the witness, and he was not produced in the witness-box.

13. Having considered the facts and circumstances of the case, this Court is of the opinion that the material evidence which has been adduced by the prosecution is not such on which reliance can be placed and the prosecution has failed to prove the case.

14. As a result, the appeal is allowed. The order of conviction and sentence passed by the Special Judge, Guna convicting the appellant under Section 3/7 of the [Essential Commodities Act, 1955](#) and sentencing him to six month's R.I. with a fine of Rs. 1,000/- is set aside. The appellant is acquitted of the charges mentioned. His bail bonds and surety bonds are hereby discharged.

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