

Baboo Lal Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Jul-08-1974

Reported in : 1974WLN466

Judge : B.P. Sen, C.J.

Appeal No. : S.B. Criminal Revision No. 452 of 1973

Appellant : Baboo Lal

Respondent : State of Rajasthan

Disposition : Petition allowed

Judgement :

B.P. Sen, C.J.

1. Applicant Baboo Lal is a partner in the firm Ghasilal Baboolal, Purani Mandi. Hindaun. The firm carries on the business of food-grains in Hindaun. The State promulgated the Rajasthan Foodgrains (Prevention of Hoarding) Order, 1973, (hereinafter called 'the Order') by its notification dated 12th February, 1973. Under Clause 3 of the Order, restrictions were placed on dealers keeping in possession foodgrains more than those specified in the clause. Under Clause 4, however, if a dealer had in his possession any quantity of foodgrains exceeding that which was permitted by clause 3, he had to submit a declaration in the form given in the Second schedule of the Order to the Tebsildar specifying the stock on the last date

of the month'. It is not disputed that the firm had on 28th February, 1973, 460 Q 85 Kg. 500 Gms of paddy and 69 Q 28 Kg. 700 Gms. of rice in their stock. The declaration was to be submitted to the Tehsildar on the 3rd of March, 1973 but 3rd of March and 4th of March, 1973 were public holidays being Shivratri and, Sunday respectively. After the declaration was filed by the applicant on the 6th March, 1973 the Tehsildar made an inspection on the 6th of March, 1973 of the said firm and the goods were found in accordance with the declaration given by it. Notwithstanding this, the Tehsildar made a complaint that Baboo Lal partner of the firm had not filed his declaration by the 3rd of March. 1973 and, therefore, he was guilty under Section 3/7 of the Essential Commodities Act. Baboo Lal when examined, admitted his guilt and added that he did not want any trial. The learned Magistrate who tried the case, convicted him to imprisonment till the rising of the court and imposed a fine of Rs. 100/ and further ordered the confiscation of the entire goods Baboo Lal preferred a revision before the learned Additional District Judge, Gangapur, but without success. Still aggrieved, he is before me.

2. Learned Counsel for Baboo Lal urged firstly that admission of the facts put to Baboo Lal by the Magistrate did not amount to a plea of guilt because according to the law. Baboo Lal could have submitted the return by the 5th of March, 1973 which he did, and the possession of foodgrains in excess of clause 3, if so declared, was not illegal Baboo Lal thus committed no offence. Any plea of guilt in the mistaken belief in regard to the position of law, is no admission of guilt at all and he placed reliance on *Niranjan Lal Arya v. State* : AIR1954 Cal82 .

3. Learned Additional Government Advocate frankly conceded and in my opinion, rightly, that the accused could have filed his declaration on or before the 5th of March, 1973 and his plea of guilt under misapprehension is no plea of guilt at all.

4. Under Section 11 of the Rajasthan General Clauses Act, 1955, Where, by any Rajasthan Law, any act or proceeding is directed or allowed to be done or taken in any court or office on a certain day or within a prescribed period, then, if the court or office is closed on that day or the last day of the prescribed period, the set or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the court of office is open:

Provided that nothing in this section shall apply in any act or proceeding to which the Indian Limitation Act, 1608 (Central Act IX of 1908) applies.

5. Clause 4 of the Rajasthan Foodgrains (Prevention of Hoarding) Order, 1973, promulgated on 12th February, 1973, reads:

Duty to declare possession of excess stock--

Any person, having in his possession any quantity of foodgrains exceeding that permitted by Clause (3) shall submit a declaration in the form given in the second Schedule to--

(a)...

(b) the Tehsildar, if the stocks are held or possessed at any other place before the 16th day of February, 1973 and thereafter at the end of every month so as to reach him within three days after the close of the month.

February, 1973 closed on the 28th day and Baboo Lal as partner could have submitted his declaration on the 1st, 2nd or 3rd of March, 1973. 3rd March being Shivratri a gazetted holiday Baboo Lal could have submitted return on 4th March, but that happened to be Sunday. Baboo Lal says and it is not disputed that he submitted the declaration on the 5th of March to the Tehsildar but he found it beyond time and the learned Magistrate concurred with him merely because the accused said that he pleaded guilty and he did not want trial, and the learned Additional Sessions Judge also did not appreciate the defence writ large in this case. Mere admission of facts is not equivalent to pleading guilt if the facts admitted do not constitute the offence. Section 11 of the Rajasthan General Clauses Act, 1955 saves the action of the accused because 3rd and 4th March, 1973 were declared holidays.

6. In the result, the revision petition is allowed, the conviction of the accused is set aside and he is acquitted. The fine, if paid by him, shall be refunded to him without delay and the goods confiscated, shall be restored to him in specie but if converted into cash, the said cash amount shall be refunded to the applicant Baboo Lal without undue delay.

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