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Court : Rajasthan

Decided On : Dec-02-1987

Reported in : 1988(1)WLN597

Judge : Mahendra Bhushan Sharma, J.

Appeal No. : S.B. Cr. Rev. Petition No. 103 of 1984

Appellant : Jai Ram

Respondent : State of Rajasthan

Judgement :

M.B. Sharma, J.

1. The petitioner has been convicted for having contravened condition No. 3 of the Rajasthan Sugar Dealers Licensing Order, 1967 (in short here in after referred to as 'the Order') made under Section 3 of the Essential Commodities Act, 1955. The said condition of the licence Ex.P 14 is as under;

3. The licensee shall maintain true and correct account of the sugar received and sold by him under the allotments issued to him by the Collector.

2. While convicting the accused-petitioner for contravention of the aforesaid clause of the licence, which is punishable under Section 3 of the Essential Commodities Act, 1955, the learned Chief Judicial Magistrate sentenced the accused-petitioner

to undergo one year's rigorous imprisonment and to pay a fine of Rs. 500/- and in default of payment of fine to further suffer three months' simple imprisonment. On appeal the learned Sessions Judge, Jhunjhunu under his judgment dated 18th April, 1984 partly allowed the appeal while maintaining the conviction of the accused-petitioner under Section 3/7 of the Essential Commodities Act, sentenced the accused-petitioner to undergo 8 months' rigorous imprisonment and to pay a fine of Rs. 500/- and in default of payment of fine to further suffer three months' simple imprisonment.

3. The only ground urged by the learned Counsel for the accused-petitioner in this revision petition is that the offence relates to the months of January and May, 1974. The accused has already undergone about 25 days imprisonment and the offence is such which under the law then in force could have been dealt with even under the provisions of the Probation of Offender Act, 1958 and at any rate was such in which the Court could have instead of sentencing the accused to eight months rigorous imprisonment could have sentenced him to any lesser imprisonment or fine. So he, therefore contends that the case of the accused should be dealt with under the provisions of the Probation of Offenders Act, 1958.

4. Public distribution system has been introduced by the Government to make available sugar etc. to the needy people of this country. It is well known and it is not disputed that there is always some difference in the price of levy sugar which is distributed through public distribution system and free sugar available in the market. The difference in the aforesaid price differs from time to time. Whereas some time it may not be much, other times it may be substantial. More and more shops in the public distribution system are being opened by the Government, but it has been seen that the persons like the petitioner who run those shops enter into malpractice, show that the sugar has been given to the rationcard holders, show that the requisite quantity of sugar and other goods sold through public distribution system has been sold to the ration card holder, but in fact lesser quantity is given to them. Present is a case where it is alleged that the petitioner though in fact gave about 300 grams of sugar to some of the ration card holders, but his accounts showed that he gave to them 400 gms. of levy sugar which was to be given to them as per the Govt. policy, and which was in fact issued. Thus, the charge

against the accused-petitioner is that he did not maintain proper accounts. Such persons like the petitioner who by and large are and may be responsible for failure of the public distribution system which is very important in a country of shortage should not be dealt with leniently. Taking into consideration that the Courts are taking a very lenient view, the Legislature has intervened and has provided the minimum sentence for some of the offences for contravention of some clauses of the orders made under various clauses of Section 3 of the Essential Commodities Act. Thus, I do not consider it proper in the larger interest of the public distribution system and the country to deal with the case of the accused-petitioner either under Section 360 Cr.PC or under the provisions of the Probation of Offenders Act, 1958, notwithstanding the fact that under the law then in force the case could have been so dealt with.

5. But the occurrence is of the months of January and May, 1974; the accused-petitioner has already undergone imprisonment of 14 days, in my opinion, looking to the period when the occurrence took place and taking into consideration the fact that already about more than 13 years have elapsed since the commission of the offence, the ends of justice would meet if the accused-petitioner is sentenced to undergo imprisonment already undergone and to pay a fine of Rs. 2000/-

6. Consequently, the revision petition is partly allowed, while maintaining the conviction of the accused-petitioner under Section 3/7 of the Essential Commodities Act, 1955 for contravention of clauses 3 of the Rajasthan Sugar Dealers Licensing Order, 1967. I hereby sentence the accused-petitioner to the sentence already undergone by him and to pay a fine of Rs. 2000/- and in default of payment of fine, the accused-petitioner shall further suffer 45 day's simple imprisonment. Three months time is allowed to the petitioner to deposit the amount of fine in the trial Court, failing which the trial Court shall take steps to see that the accused-petitioner undergoes the sentence awarded in lieu of payment of fine.