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Court : Rajasthan

Decided On : Dec-05-1985

Reported in : 1985WLN(UC)425

Judge : Farooq Hasan, J.

Appeal No. : S.B. Criminal Revision No. 146 of 1979

Appellant : Jeetmal

Respondent : State of Rajasthan

Disposition : Petition dismissed

Judgement :

Farooq Hasan, J.

1. This revision petition is filed against the judgment passed by Sessions Judge, Pratapgarh dated March 21, 1979, whereby he upheld the conviction and sentence of the petitioner under Section 3/7 of the Essential Commodities Act and sentencing the petitioner to a fine of Rs. 1000/-and in default of payment of fine simple imprisonment for two months.

2. Briefly stated the facts of the case are that Shri Jagdish Prasad Gaur, Enforcement Officer, filed a complaint against the petitioner and his brother Surajmal to this effect that both the petitioner & his brother Surajmal are the

proprietors of M/s Bahadur General Store, Pratapgarh and they carry on the business of selling soap. On July 20, 1974 the Enforcement Officer inspected the shop (Bahadur General Store) and found that 23 'peties' of Ashok Brand Soap and 3 'peties' soap of Banswara Brand were in the possession of the petitioner and his brother. The price list and stock as contemplated under the Rajasthan (Display of Price and Stock of Essential Commodities) Order 1966, here in after referred to as 'the Order of 1966' were not displayed by the dealer and it is further alleged that on checking the bill book, the names and addresses of the purchasers were not mentioned. The petitioner was, therefore, held, to have contravened Clauses (3) and 5(iii) of the Order of 1966. On receipt of the complaint a case was registered against the petitioner and one, i.e., his brother Surajmal. Charges were framed against both the accused persons. Both the accused denied the charge and claimed the trial. After recording the prosecution evidence and the statements of the accused persons and hearing the arguments of the parties, the learned Chief Judicial Magistrate, Chittorgarh, found the petitioner guilty under Section 3/7 of the Essential Commodities Act and passed the aforesaid sentence.

3. Heard the learned counsel for the parties and perused the record.

4. It has been contended by the learned counsel for the petitioner that the prosecution has failed to establish that the list of price and the stock were not displayed at or near the business premises. The witnesses produced by the prosecution did not support the prosecution case. Price list and stock were displayed by the petitioner vide Ex. P 2, copy of which was given to the Enforcement Officer. The trial court erred in rejecting this evidence.

5. The learned Public Prosecutor on the other hand submitted that the trial court as well as the Appellate Court have given a concurrent finding to this effect that the price list as well as stock were not displayed by the petitioner. In the present petition, question of fact cannot be challenged.

6. I have considered the arguments advanced by both the learned counsel and perused the record. This is correct to say that there is a concurrent finding of fact against the petitioner. Originally court sparingly interfere the concurrent finding of fact. The only point for consideration before the Subordinate Courts as well as

before this Court in that as to whether the price list as well as the stock of the soap were displayed as is required under the Order of 1966. It has not been disputed at the trial by the petitioner that he was not having the soap as is reported by the Enforcement Officer in his complaint. The petitioner simply disputed that though the price was displayed but still the Enforcement Officer concealed this fact while filing the complaint. So the only question to be decided is that : whether any price list was ever displayed by the petitioner ?

7. Shri Jagdish Prasad inspected the business premises of the petitioner and he prepared Ex. P 4 the inspection report. Statement of Shri Jagdish Prasad has been corroborated by PWs Mangilal and Bhoorsingh. The contention of the learned counsel for the petitioner that Ex. P 2 is a copy of the list which was displayed by the petitioner. This version of the petitioner has not at all been supported by an evidence at the time of inspection. Ex. P 2 was handed over to the Enforcement Officer which was taken by him. The present petitioner neither in his statement under Section 313 Cr.PC nor at the time when charge was read over to him did claim that Ex.P 2 was the true copy of the list displayed by him under the said Order of 1966. It has been found by both the lower courts that the bills issued by the petitioner were not in order as per Clauses (5) (iii) of the Order of 1966. It has been observed by both the lower courts that in the bills issued by the petitioner one cannot find as to who was the purchaser of the articles from the petitioner. Neither the names, nor their addresses of the purchasers were given in various bills issued by the petitioner. Under these circumstances it can be held that the petitioner contravened the provisions of Clause 5(iii) of the Order of 1966.

8. As observed above, that powers of revision can be exercised only when gross injuries is present on the face of the record. In the instant case before me I find no such injuries nor any illegality in the orders passed by the subordinate courts.

9. I, therefore, find no force in this revision. Hence it is dismissed. The petitioner is directed to deposit the fine within 3 months from the date of this order, failing which, he will have to undergo two months' rigorous imprisonment.