

Sohan Singh Vs. the State of Rajasthan

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SooperKanoon Citation : sooperkanoon.com/850776

Court : Rajasthan

Decided On : Mar-26-2010

Judge : Dinesh Maheshwari, J.

Appellant : Sohan Singh

Respondent : The State of Rajasthan

Judgement :

ORDER

Dinesh Maheshwari, J.

1. This revision petition is directed against the orders dated 13.02.1995 and 16.02.1995 whereby the learned Special Judge, Essential Commodities Act Cases, Hanumangarh proceeded, respectively, to reject the application under Section 258 Cr.P.C. moved by the accused-petitioner and to state the substance of accusation under Section 3/7 of the Essential Commodities Act.

2. It is contended in this revision petition that under the relevant provisions of the Rajasthan Trade Articles (Licensing & Control) Order, 1980, the powers of search and seizure have been conferred upon the Licensing Authority or the Executive Magistrate or Police Officer not below the rank of Deputy Superintendent of Police or Tehsildar or any Officer not below the rank of Enforcement Inspector; and, in the present case, the proceedings, having allegedly been conducted by the Circle Inspector, who was not empowered to do so, remain entirely illegal and

unauthorized. It is submitted that the proceedings and the investigation being wholly authorized, the petitioner ought to have been discharged.

3. Without expressing any opinion on the merits of the submissions aforesaid, this Court is of opinion that the matter deserves to be remanded to the learned Special Judge for the reason that the learned Judge has proceeded to dispose of the application as moved by the petitioner with a short and rather cursory order mentioning that the provisions of Section 258 Cr.P.C. do not apply but without dilating adequately on the contentions urged on behalf of the petitioner with reference to the material on record and the law applicable thereto.

4. It was definitely expected of the learned Special Judge to have dealt with, even in brief, with the submissions made on behalf of the petitioner before disposing of the application and proceeding with the trial. In the given circumstances, neither the order dated 13.02.1995 rejecting the application could be approved nor the order dated 16.02.1995 on statement of the substance of accusation under Section 3/7 of the Essential Commodities Act could be sustained at this stage; and hence, both the impugned orders deserve to be set aside and the case deserves to be remanded for consideration afresh.

5. Accordingly, this revision petition is allowed to the extent indicated above; the impugned orders dated 13.02.1995 and 16.02.1995 are set aside; the application moved by the petitioner shall stand restored for re-consideration of the learned Special Judge, who shall deal with the same and then, shall proceed in accordance with law.

6. The petitioner is directed to appear before the learned Special Judge on 10.05.2010.

7. The record be returned to the Court concerned immediately.