

Taru Bala Roy Vs. the State

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Court : Kolkata

Decided On : Jul-16-1952

Reported in : AIR1953Cal307,56CWN738

Judge : K.C. Chunder, J.

Acts : [Evidence Act, 1872](#) - Sections 18 and 73

Appeal No. : Criminal Appeal No. 96 of 1952

Appellant : Taru Bala Roy

Respondent : The State

Advocate for Def. : Amaresh Chandra Roy, Adv.

Advocate for Pet/Ap. : Chintaharan Roy, Adv.

Disposition : Appeal allowed

Judgement :

K.C. Chunder, J.

1. This is an appeal against the conviction of the appellant under Section 73 of the Essential Supplies Act, 1946, for contravention of Clause 9 of the Calcutta Industrial Area Rationing Regulation, 1943, by a Presidency Magistrate of Calcutta and sentence of Rs. 500/- as fine. It is said that the accused possessed two sets

of ration cards--one in Beadon Street and another taken from North Barrackpore. Really the two sets of cards did not belong to the accused as the head of the family. The accused has a husband and the set of cards of North Barrackpore are said to have been issued in the name of the accused's husband as the head of the family, whilst the cards taken at Beadon Street, Calcutta, were issued in the name of the accused as the head of the family. The learned Magistrate's judgment does not show that the accused did not take the cards lawfully in Beadon Street, while some one else may have taken wrong or illegal cards at Barrackpore. This is the first defect.

2. The second defect is that there is absolutely nothing to connect the accused with anything done purporting to be in her name. The learned Magistrate himself found this defect. So he proceeded to solve it in a way which again did not legally solve it. He became a handwriting expert himself and he says that he compared some admitted signatures of the accused with those in the document, namely, the ration cards alleged to have been signed by her. The learned Magistrate as a stipendiary Presidency Magistrate of Calcutta should know at least this much of elementary law that no one in a criminal trial can admit anything on behalf of an accused person except the accused himself or herself. If signatures are going to be taken as admitted signatures they must be admitted by the accused himself or such signatures must be proved. Mr. Roy appearing on behalf of the State could not find out anything from the record to show that the accused admitted these signatures with which the comparison is said to have been made by the handwriting expert, namely, in this case the learned Magistrate himself. Under the circumstances the learned Magistrate's finding is based absolutely on no legal evidence.

3. The appeal is, therefore, allowed and the conviction and sentence are set aside. The fine, if paid, is to be refunded.