

Ram Saran Vs. the State

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Court : Kolkata

Decided On : Jul-02-1951

Reported in : AIR1953Cal406

Judge : K.C. Das Gupta and ;Lahiri, JJ.

Acts : West Bengal Cotton and Yarn Control Order, 1948

Appeal No. : Criminal Revn. No. 329 of 1951

Appellant : Ram Saran

Respondent : The State

Advocate for Pet/Ap. : S.S. Mukherjee and ;Pritibhusan Barman, Advs.

Judgement :

ORDER

1. The petitioner was convicted under Section 7(1), Essential Supplies Act for failure to keep the price list as required by Rule 18, West Bengal Cotton Cloth and Yarn Control Order, 194S, and for failure to produce the duplicate cash memos for sales of cloth as required by Rule 19.

2. It has been contended on behalf of the petitioner that he cannot be said to have contravened Rule 18 of the aforesaid Order unless it is shown that he had in his shop cloth with the price stamped thereon. The rule is in these words:

'A dealer other than a hawker shall display in a conspicuous position at his place of business a list in the most commonly understood language of the locality showing the maximum legal price in respect of all such kinds of cloth in his shop or store as have prices stamped thereon and shall not withhold from sale any such cloth to any person on demand and offer of the maximum legal price'.

It is contended that as no evidence has been given that there was in the shop at that time any kind of cloth with the price stamped thereon the accused cannot be said to have contravened Rule 18. In our judgment this contention must prevail. We cannot assume that the accused being a dealer in cloth must have had in his shop cloths with prices stamped thereon. For all that is known he may have had in his shop at that time only handloom products which have not their prices stamped thereon. The failure to maintain a list in these circumstances did not amount to a contravention of Rule 18.

3. On the question whether Rule 19 was contravened it is necessary to notice that the rule requires first that every dealer shall issue a cash memo or credit note with respect to every sale and shall keep a duplicate which shall be produced by such dealer. Before the question of production of a duplicate arises there must be a sale of cloth. There was no evidence in this case of any sale of cloth between April 1950 and the date on which the Enforcement Officer made his inspection namely 31-8-1950, nor is there any evidence of any sale on 31-8-1950. As regards sales in April 1950 or before that the evidence indicates that there was in the shop an old cash memo book with duplicates. The evidence is therefore not very clear as to whether there were such sales after the period to which the old cash memo book related as would require a duplicate to be produced. We have therefore come to the conclusion that the prosecution has not been able to show that the accused-petitioner contravened Rule 19 mentioned above.

4. We therefore set aside the order of conviction and sentence passed by the learned Magistrate and order that the accused-petitioner be acquitted and discharged from his bail bond.