

Jayant Kumar Sharma

Vs

State of M.P

Criminal Appeal No. 315 of 1991 (arsing out of S.L.P. (Criminal) No. 741 of 1988)

(K. Jagannatha Shetty, Yogeshwar Dayal JJ)

18.04.1991

JUDGMENT

1. Special leave granted.

2. The appellant has been prosecuted for violating the provisions of Cl. 6(4) of the Madhya Pradesh (Khadya Padarth) Sarvaj anik Nagrik Poorti Vitran Scheme, 1981, and convicted under S. 3(7) of the Essential Commodities Act. He was sentenced one year imprisonment, the validity of which has been impeached in this appeal.

3. The appellant was given permit for the sale of foodgrains in the village Kotetara at the weekly bazar held once in a week. On the date of the weekly bazar he lifted certain foodgrains from the Baradwara branch of the Food Corporation of India. It was in the evening at about 5.00 p.m. on that day. He had no vehicle except the bullock-cart to transport the foodgrains to Kotetara. Kotetara is about 14 kilometers away from Baradwara. He has no shop at Kotetara for storing the foodgrains and therefore, he kept the same at Baradwara at his cycle-shop. What happened thereafter is in dispute. According to the appellant he straight went to the Baradwara Police Station and informed the Station house Officer (SHO) that he has kept the foodgrains in his cycle-shop since he could not transport the same to Kotetara. According to the SHO upon getting the information that the appellant has concealed foodgrains without distributing the same at Kotetara he raided the place and seized the foodgrains. At the time of seizure the appellant gave an application that he has kept the foodgrains at that place since he could not get conveyance for transporting the food grains to Kotetara. Ex. P.2 is the application admittedly given by the appellant to the SHO. If that application has been given by the appellant in the Police Station as contended by him the police indeed have no case to prosecute the appellant.

4. We have heard counsel on both sides and also perused the entire material on record. We are inclined to believe that the appellant has given Ex. P.2 to the SHO at the Police Station. This is also corroborated from the contents of the First Information Report in which there is reference to the fact that the appellant did visit the Police Station before the search and seizure of the food grains by the SHO.

5. Even otherwise it will be seen that the prosecution of the appellant is unjustified. The foodgrains were required to be distributed on the shandy day at Kotetara. He lifted the food grain at Badadwara in the evening of such a day. So there was no question of distribution of the food grains on that day itself. He has to wait for the next weekly shandy day. He has not attempted to sell the same at Baradwara. He has stored it at the cycle-shop. It is, therefore, not legitimate to infer that the appellant has kept concealed the food grains for sale in the black market.

6. In the result we allow the appeal, set aside the conviction and sentence, and acquit the appellant from all the charges levelled against him.

Appeal allowed.

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