

Isher Dass

Vs

State of Haryana

Criminal Appeal No. 396 of 1981

(K. Jayachandra Reddy, R. C. Patnaik JJ)

08.04.1992

JUDGMENT

1. The appellant is convicted under S. 7 of the Essential Comny)dities Act read with Cl. 3 of the Haryana Milk and Milk Products Control Order, 1975 (for short 'Control Order'), and was sentenced to pay a fine of Rs. 1,000/- and in default to undergo R.I. for one month. A revision petition filed by the appellant was also dismissed.
2. This order was made under S, 3 of the Essential Commodities Act and was in force for a short period from 23-5-75 to 20-7-75. As per the provisions of this order no person shall use milk of any kind for manufacture of cream, skimmed milk, khoa etc. nor can sell, supply or export any cream, skimmed milk of any kind except those of which ghee is an ingredient. The other provisions need not be referred to. This order was made for the purpose of maintenance of Increased supply and distribution of milk exported from the State of Haryana as it is essential commodity to the community.
3. It is submitted that the Control Order itself was for a short period and the prosecution could not be continued after the expiry of the period. This aspect has been dealt with by all the three Courts below. It is needless to say that the trial in respect of an offence committed when the control order was in force, cannot be expected, to be completed within that short period. The offence committed has to be tried in spite of the expiry of the period. Mere expiry of the period does not make any difference. As S. 7 of the Essential Cornmodities Act stood, on the date of offence the minimum sentence of 3 months was, no doubt, there but there was a proviso under which the Court may for any adequate and special reasons to be mentioned in the judgment, impose a sentence for a term less than 3 months. This proviso was omitted in the year 1981 for a period of 5 years. Therefore, the position is that in a given case before 1981 the Court for adequate reasons could award all sentence less than 3 months.
4. From the facts stated above it can be seen that the Control Order was made only for a period of about 2 months only. The offence was committed in the year of 1975. Further the case of the appellant is that he has not made the cream for selling or for storing etc. It was made only for the purpose of preparing ghee which was used in preparation of sweets. From this it cannot be said that he did not commit any offence. From the record it appears that this Court granted bail while issuing notice and that the same shows that the petitioner was injail for some days. Under the circumstances the conviction is confirmed but the sentence is reduced to the period already undergone. The sentence of fine is, however, confirmed. The appeal is disposed of accordingly. Order accordingly.

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