

# SUPREME COURT OF INDIA

State of M.P.

Versus

Bhupendra Singh

(S.P. Bharucha and Syed Shah Mohammed Quadri, JJ)

Criminal Appeal No. 21 of 2000

07.01.2000

## JUDGMENT

1. Leave granted

2. The respondent was apprehended on 17.2.1977 and it is the case of the appellant that detonators were found in his possession. A charge-sheet was filed against him under the provisions of Section 4 and 5 of the Explosive Substances Act, 1908 ("the said Act"). Cognizance was taken and the trial proceeded to some extent. The respondent then filed a revision petition before the High Court of Madhya Pradesh contending that the consent of the Central Government which was requisite under Section 7 of the said Act had not been properly obtained. The High Court accepted the respondent's contention and quashed the proceedings against him. The State of Madhya Pradesh is in appeal.

3. For a prosecution under the said Act, the consent of the Central Government is requisite by virtue of the provisions of Section 7 thereof. By notification dated 2.12.1978 the Central Government entrusted to the District Magistrates, inter alia, in the State of Madhya Pradesh functions under Section 7 of the said Act.

4. The consent for the prosecution of the respondent was granted by the Additional District Magistrate of the district concerned and, in this behalf, reliance was placed, on behalf of the appellant, upon a notification dated 24.4.1995 issued by the appellant whereunder it appointed the Joint Collector and Executive Magistrate as Additional District Magistrate for the district of Gwalior and directed that Code (Criminal Procedure Code) or under any other law for the time being in force". The submission on behalf of the appellant is that, by reason of the latter notification, the power under Section 7 of the said Act delegated by the Central Government to the District Magistrate had now been delegated to the Additional District Magistrate and that, accordingly the consent that he granted for the prosecution of the respondent was valid.
5. It is difficult to accept the submission. The power of granting consent under Section 7 of the said Act rests with the Central Government. The Central Government has delegated it to the

District Magistrate.

6. The decision of this Court in *Hari Chand Aggarwal v. Batala Engg. co. Ltd.* is also of some relevance. This Court said that where, by virtue of a notification under Section 20 of the Defence of India Act, the Central Government had delegated its powers under Section 29 to a District Magistrate, an Additional District Magistrate was not competent to requisition property under Section 29 simply because he had been invested with all the powers of a District Magistrate under Section 10(2).
7. The appeal fails and is dismissed.