

(2012) 10 AHC CK 0052
In the Allahabad High Court
Case No : Criminal Appeal No. 732 of 1986

Allan Shah	Vs	APPELLANT
State of U.P.		RESPONDENT

Date of Decision : 03-10-2012

Acts Referred:

ESTATE DUTY ACT, 1953 — Section 3, 7

Citation : (2013) 2 ALJ 407

Hon'ble Judges : Rajes Kumar, J

Bench : Single Bench

Advocate : M.L. Hajela, for the Appellant;

Final Decision : Allowed

Judgement

Rajes Kumar, J.—This is an appeal against the judgment dated 12.02.1986 passed by Special Judge (E.C. Act), Rampur, by which he has found the appellant guilty of offence u/s 3 /7 of E.C. Act and sentenced him to undergo one year Rigorous Imprisonment. No one appears on behalf of the appellant. Learned Additional Government Advocate is present. Record of the case is available. I have perused the record.

2. From the perusal of the record, I am of the view that it is not a case of conviction and, therefore, the Court proceed to decide the appeal even in the absence of learned counsel for the appellant, with the help of learned Additional Government Advocate.

3. It appears that on 04.01.1983 Marketing Inspector, Rampur inspected truck No. URK-6000 standing on the Bilaspur-Bareilly-Rampur Tiraha Railway Godown at about 7.30 p.m. It was found loaded with 17 bags wheat and one katta wheat weighing 17.28.500 qtls., bajra 14 bags weighing 13.96 qtls., Jowar 2 bags weighing 1.88.500 qtls. and rice 5 bags weighing 4.66 qtls. besides parchoon items in peties. Besides the truck driver, accused was found present. He asked both of them to produce the papers relating to the commodities and the licence

but they did not produce. The truck was taken to the police station Civil Lines. The commodities were given in the supurdigi of Anil Kumar through memo Ex-Ka-2 and First Information Report was lodged at police station and a case was registered. Later on chargesheet was submitted after obtaining necessary sanction from the prosecution. Cognizance was taken and the accused was summoned and his statement was recorded. In his statement the accused stated that he was bona fide passenger on the truck and had nothing to do with the commodities in question; he had come to the place of his relative, Bhure Shah at Rampur, who resides at Railway quarter T-18A; after having lunch he was returning; on the settlement with the driver at Rs. 5/- as freight he was travelling in the truck; the goods did not belong to him. The prosecution has examined Sri. Rohilla on oath to prove its case. The statement of Bhure Shah as witness was also recorded. He has also affirmed the statement of the accused. It appears that the statement of the driver has not been recorded. The trial Court has held that the appellant was the owner of the goods as in the truck only the owner of the goods was permissible to travel and no one-else.

4. I am of the view that the prosecution failed to substantiate its case that the goods belonged to the accused. At the time of inspection on 04.01.1983 neither the statement of the accused nor the statement of driver had been recorded. The statement of the driver has also not been recorded subsequently. There is no evidence to establish that the goods loaded in the truck belonged to the accused. Mere on surmises it has been presumed that the appellant was the owner of the goods. The appellant in his statement has categorically denied the ownership of the goods and explained that he came to Rampur to meet his relative, Bhure Shah and going back to his home. There is nothing to the contrary on record to dispute the statement of appellant. In the absence of any material, I am of the view that the finding of the trial Court that the goods belonged to the appellant is merely based on surmises and conjectures and is not sustainable. In the result the appeal is allowed. The judgment of the trial Court dated 12.02.1986 passed by Special Judge (E.C. Act) is hereby quashed. The appellant is acquitted. The bail bonds are discharged.