
(2018) 08 CAL CK 0034
In the Calcutta High Court
Case No : Criminal Appeal No. 39 of 1994

Anath Medda, Anath Bandhu Medda	APPELLANT
Vs	
State of West Bengal	RESPONDENT

Date of Decision : 14-08-2018

Acts Referred:

Essential Commodities Act, 1955 — Section 7(1)(a)(ii)
Code of Criminal Procedure, 1973 — Section 437A

Citation : (2018) 08 CAL CK 0034

Hon'ble Judges : RAJARSHI BHARADWAJ, J

Bench : Single Bench

Advocate : Mukti Chandra Ghosh, Subhas Medda, Faria Hossain, Pratick Bose

Final Decision : Allowed

Judgement

Rajarshi Bharadwaj, J.

This appeal has been preferred by the appellant against the judgement and order dated 18th January, 1994 passed by the learned Judge, Special Court,

Burdwan in T.R. Case no. 81 of 1990 by which the appellant was convicted under Section 7(1)(a)(ii) of the Essential Commodities Act and sentenced

to suffer rigorous punishment of two years and to pay fine of Rs.2000/-, in default, to suffer rigorous punishment of six months and to confiscate the seized paddy to the State.

The prosecution case in short is that Sub-Inspector Nirmalendu Mukherjee of D.E.B. (S), Burdwan submitted a written complaint to the Officer-in-

Charge, Madhabdihi Police Station stating, inter alia, that on 30th May, 1990 between 9.15 and 11.30 hours he along with Constable no. 2726 Rama

Prasad Bose under the supervision of D.E.O. (I), Sadar, Burdwan conducted a raid at Pahalanpur within Madhabdihi Police Station and detected huge

paddy in the premises of the accused/appellant at Pahalanpur just to the western side of main road. The appellant took to the heels on the sight of the

police party and the Police Officer found the weighment equipment at his business premises. He called two local witnesses namely, Debipada Pal and

Dibakar Mirdah, both of Pahalanpur and entered into the business premises, where he detected huge stock of loose paddy along with 43 bags of paddy

inside the shop-cum-godown.

He also detected daily sheets for purchase and sale of paddy on the Gaddi in a room facing to north. From the facts and circumstances stated above,

it could be established that the accused/appellant was dealing with paddy business without any licence. The Police Officer arranged for measurement

of loose stock of paddy of 84 quintals and the total quantity of paddy was 109.80, which was seized along with the scale and weights. The seizure list

was prepared and duly signed by the witnesses. In the above circumstances, the accused had violated the provisions of paragraph 3(1)(a) of the West

Bengal Rice and Paddy (Licensing and Control) Order, 1967. The accused was absconding at that time and subsequently, he surrendered before the

Court. On the basis of the complaint lodged on 30th May, 1990, the above-mentioned case was initiated. After investigation police submitted charge-

sheet against the accused under Section 7(1)(a)(ii) of the Essential Commodities Act for violation of the provisions of paragraphs 3(1)(a) and 8A of

the West Bengal Rice and Paddy (Licensing and Control) Order, 1967.

Mr. Mukti Chandra Ghosh, learned advocate appearing for the appellant submitted that P.W.1, P.W.2 and D.W.1 deposed in their depositions that the

accused/appellant was a cultivator and had five brothers, who cultivated 20/22 bighas of land yielding double crops in a year and each bigha yields 15-

16/20-22 mounds of rice. The accused was not carrying any business of paddy and the seized paddy was agricultural product of the accused and his

brothers. They lived in a joint mess and the local people knew that the seized paddy was their agricultural product. As they were cultivators in that

area, they maintained measurement scale, weight in their premises and the seized paddy was not actually weighed. The entire paddy was kept under

the jimma of P.W.2, Debipada Pal.

He further submitted that nobody deposed including Sub-Inspector and Constable that they had noticed any customer for purchasing and selling paddy

in the said premises. None had deposed that there was any signboard in the said premises and stock register of purchase of paddy was found in the premises. There was no whisper of finding out any daily purchase sheets of paddy in the deposition of P.W.1, P.W.2 and P.W.3, being Constables in the raiding party. The local witnesses never stated that the premises in question was the business place of the accused and there was no mention in the case diary, written complaint or in the seizure list that empty bags were found in the premises.

He also submitted that the raid was conducted between 9.15 and 11.30 hrs. and it was not possible to weigh 109.80 quintals of paddy after filling the bags with the help of two witnesses during the short time. The Sub-Inspector conceded in his evidence that he did not mention the existence of empty bags in the premises to fill the paddy and as such measurement of 109.80 quintals paddy was not possible during the short time. P.W.3 deposed that when raid was conducted, the accused/appellant was not present and he did not know the details of the raid. Therefore, the accused/appellant did not deal in paddy but the paddy was his agricultural product and as such the accused should be included as producer within the meaning of Section 2(d) and (m) of the West Bengal Rice and Paddy (Licensing and Control) Order, 1967. The truth of the fact regarding 21 sheets of sale and purchase of paddy had not been proved by evidence in view of the fact that the Sub-Inspector did not examine the persons mentioned in those sheets and there was no signature of any witness, although the witnesses were present in the premises in question.

It has been further submitted that the learned Trial Judge (Special Court) has failed to appreciate the fact and depositions as stated above and accordingly, the appellant is not guilty for violation of the provisions of paragraphs 3(1)(a) and 8(A) of the West Bengal Rice and Paddy (Licensing and Control) Order, 1967 as the accused is not liable to be convicted under Section 7(I)(a)(ii) of the Essential Commodities Act, 1955. Learned advocate for the appellant has prayed that the appeal be allowed, the impugned order be set aside and the appellant be acquitted. Heard learned advocates for the parties.

In view of the aforesaid discussion, I find substance in his argument and the appellant deserves an order of acquittal on that score. Therefore, I set

aside the conviction and sentence imposed on the appellant and the appellant shall be discharged from the bail bonds after six months in terms of

Section 437A of the Code of Criminal Procedure. However, considering a line of defence as adopted by the appellant herein, I do not like to pass any

order reversing the trial Court's verdict with regard to confiscation of the seized paddy, rather it stands unaltered, since after a lapse of 24 years, it

lost its relevance.

Accordingly, the appeal, being CRA 39 of 1994, is allowed. Copy of the judgment along with LCR be sent down to the trial court at once for

necessary compliance. Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal

formalities.