
(1980) 06 BOM CK 0005

In the Bombay High Court

Case No : Criminal Application No. 185 of 1979

Cajubhai Balabhai Pradhan

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 30-06-1980

Acts Referred:

Constitution of India, 1950 — Article 227

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (1982) 1 BomCR 284 : (1981) CriLJ 209

Hon'ble Judges : Rele, J

Bench : Single Bench

Judgement

1. The Rule in this application raises a narrow question whether the petitioner-accused has, by his act or omission, withheld the water supply to the tenants, which is declared to be an essential supply under Explanation to Section 24 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947.

2. The petitioner is a landlord of seven buildings, known as Ramanagar at Goregaon. There are 293 tenants in those buildings. The landlord used to charge an extra amount of Rs. 5/- per month to each of the tenant over and above the rent towards water charges. In or about April 1974, the petitioner demanded an amount of Rs. 15/- per month from each of the tenants towards water charges on the basis that the Bombay Municipal Corporation has raised the rate of water charges. The tenants resented the increase in the water charges. The tenants filed application in the Court of Small Causes for fixation of standard rent. Interim standard rent was fixed at 80 per cent of Rs. 66/- per month and interim water charges were fixed at Rs. 3/-. The petitioner-landlord also made an application for enhancement of the water charges.

3. Pending these proceedings in respect of standard rent filed by the tenants and by the petitioner-landlord, on 7-3-1977 the Bombay Municipal Corporation cut off the water supply and on 8-3-1977 the President of the Tenants' Association Lavji Pitambar filed a complaint at the Goregaon police station against the petitioner-

landlord for cutting off an essential supply and thereby committing an offence u/s 24 of the Bombay Rent Act, 1947.

4. The petitioner-landlord was charge-sheeted in the Court of the learned Metropolitan Magistrate, 22nd Court, Andheri, Bombay, and he was convicted u/s 24 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, and sentenced to pay a fine of Rs. 100/-. Against his conviction and sentence, the petitioner preferred Revision Application in the Court of Session for Greater Bombay and the learned Additional Sessions Judge by his order dated 28th August, 1978 dismissed the Revision Application. The petitioner has now come to this Court in Revision u/s 482 of the Cr.P.C. and Article 227 of the Constitution of India.

5. Now, in order that a landlord should be held guilty u/s 24 of the Rent Act, it must be shown that the landlord has by his act or omission withheld the essential supply. In the present case, it is an admitted fact that there was a dispute between the petitioner-landlord and the tenants in regard to the water supply charges, and pending this dispute from 1974, the water charges were in arrears to the tune of about Rs. 32,552.75. It was for this reason that the Bombay Municipal Corporation cut off the water supply on 7-3-1977. The petitioner-landlord in the present case was demanding water charges at the rate of Rs. 15/- per month and water charges at the rate of Rs. 3/- per month were fixed in the standard rent proceedings. Shri Rajani has contended that it was impossible for the petitioner-landlord to pay Rs. 32,000/- as the tenants were in arrears for payment of the said amount to the petitioner and, therefore, it cannot be said that the petitioner-landlord has omitted to pay water charges to the Bombay Municipal Corporation. There is considerable force in the argument advanced by Shri Rajani. If by non-payment of the water charges the landlord is put to helpless position, it cannot be said that the landlord has committed any act or omitted to do any act by which any essential supply has been discontinued.

6. In the result, I pass the following order :

Rule made absolute. Conviction and sentence passed upon the petitioner set aside. Fine, if paid, be refunded to the petitioner.

7. Rule made absolute.