

(1979) 03 CAL CK 0006
In the Calcutta High Court
Case No : Criminal Rev. No. 1176 of 1977

Durjadhan Ray

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 20-03-1979

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 397, 401, 482
Essential Commodities Act, 1955 — Section 7(1)(a)(ii)

Citation : 84 CWN 143

Hon'ble Judges : S.C. Majumder, J;P.C. Borooah, J

Bench : Division Bench

Advocate : Mukul Gopal Mukherjee and Debi prasad Sen Gupta, for the Appellant; Asi Ranjan Mandal, for the Respondent

Final Decision : Allowed

Judgement

S.C. Majumder, J.—This is an application under Sections 397 and 401 read with Section 482 of the Code of Criminal Procedure against an order and judgment dated 14th May, 1977 passed by Sri S. N. Banerjee, Sessions Judge Nadia by which he affirmed the order of conviction and sentence u/s 7(1) (a) (ii) of the Essential Commodities Act, 1955 and the sentence to undergo rigorous imprisonment for three months and to pay a fine of Rs. 100/ in default to suffer rigorous imprisonment for a further period of one week as passed by Sri S. P. Dutta, Sub-Divisional Judicial Magistrate, Ranaghat on February 28, 1977 in D. E. B. G. R. Case No. 84 of 1975. It is the case of the petitioner that he is a cultivator and he was assessed with levy of 4 quintals 12 kilograms of paddy. The petitioner made a representation against the order and the Block Development Officer, Chekdal intimated him that the final assessment of paddy was 2 quintals and 8 kilograms which he was to deliver by 18.2.1975. The petitioner was served with this copy of the order under Certificate of Posting and the petitioner delivered 2 quintals and 6 kilograms of paddy to Balia Co-operative Multipurpose and Marketing Society for which he was given a receipt No. A-946 and the default of the petitioner was only to the extent of 2 kilograms,

2. The defence of the petitioner was that the order imposed upon him was substantially complied with and there was no violation of the statute on account of the marginal default. We considered the submissions of the petitioner. The maxim *de minimis non curat lex* is one which is to be applied in the case. The maxim *de minimis non curat lex* lays down that law does not take notice of marginal defaults. The marginal defaults are deemed to have been cured in this particular case.

If the petitioner had a *mense rea* of disobeying the order of levy he would have disobeyed it in toto. But the fact that he has delivered 2 quintals 6 kilograms as against 2 quintals 8 kilograms goes to show that he had a mind to comply with the order and not to disobey it. Hence maxim *de minimis non curat lex* will apply in all force in this case. Hence it is ordered that the application be allowed and the order of the learned Sessions Judge upholding the order of the learned Sub-Divisional Judicial Magistrate, Ranaghat be quashed. The accused be discharged from his bail bond.