
(1990) 09 RAJ CK 0015

In the Rajasthan High Court

Case No : Criminal Revision Petition No. 249 of 1981

Girdhari Lal

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 14-09-1990

Acts Referred:

Essential Commodities Act, 1955 — Section 3, 7

Citation : (1990) 2 RLW 560 : (1990) 2 WLN 224

Hon'ble Judges : Y.R. Meena, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Y.R. Meena, J.—This revision petition is directed against the judgment of learned Sessions Judge, Churu who has convicted the petitioner u/s 3/7, Essential Commodities Act and sentenced three months" imprisonment and fine of Rs. 500/-, in default of payment of fine further undergo three months" simple imprisonment.

2. The facts in brief are that one Motiram complained to Tehsildar that petitioner Girdharilal on 25.12.76 arranged lunch for more than 100 persons in violation of the provisions of Section 3/7, Essential Commodities Act. On this complaint, Tehsildar Verbally instructed Enfor cement Inspector Shri Jagdish to find out the facts. He went to the house of Girdharilal petitioner on 25.12.76 and found that there was huge gathering at his residence. He had invited the persons for food on the occasion of his father"s death. He also found that some food was already prepared and served. Some food was seized. Statements of various persons recorded. Seized food was handed over to Doongar Singh and later on that foodstuff was destroyed. A case was registered. Prosecution examined as many as six witnesses that includes Shri Jagdish, Food Inspector, Motiram, Gopal, Umrao, Arjun and Doongar Singh. Except Jagdish all five witnesses were declared hostile as they did not support the case of prosecution. In defence, the accused petitioner submitted that he provided on twelfth day of his father"s death to

20,25 persons and he did not violate any provision of Essential Commodities Act. Learned Magistrate, Churu, relying on the statement of Shri Jagdish, Enforcement Officer, convicted the accused petitioner Girdharilal and sentenced him to under go three months" simple imprisonment and pay fine of Rs. 500/-, in default to further undergo simple imprisonment for three months. Being aggrieved, he went in appeal before the learned Sessions Judge, Churu. Learned Sessions Judge, Churu dismissed the appeal of accused petitioner. Being aggrieved from the Judge, accused petitioner filed revision petition before this Court.

3. Learned Counsel for the accused petitioner Shri Goel submitted that when out of six, five witness were declared hostile, the testimony of one witness i.e. the Government employee should not be believed for conviction. He futher submitted that the prosecution has failed to prove that Halawa was prepared out of cereal or come under prohibited food. No other evidence is brought on record, which supports the prosecution case, therefore, there is no justification in conviction to accused-petitioner. On the other hand, learned Public Prosecutor relied on the judgments of authorities below.

4. After hearing the rival submissions and perusal of material on record, I find that out of six witnesses, five were declared hostile which did not support the case of prosecution, when there is no corroboration of the statements of Shri Jagdish, Enforcement Inspector, I am inclined to accept the argument of Shri Goel that there is no justification in convicting the accused petitioner for violation of the provisions of Section 3/7 Essential Commodities Act only Statements of Shri Jagdish, though his state create suspicion about commission of the offence by accused petitioner, but on the basis of the suspicion we cannot upheld the conviction and sentence awarded to accused by the lower courts. At least it can be said that the prosecution has failed to prove its case beyond reasonable doubt and the benefit of reasonable doubt is to be given to the accused petitioner.

5. So far whether food was prepared out of cereals which were prohibited by the Act, neither I found any force in the submissions of learned Counsel for the accused petitioner, nor I would like to consider it necessary to discuss in detail. When I am inclined to accept the argument of Shri Goel that prosecution has failed to prove the offence beyond reasonable doubt, I set aside the conviction sustained by the learned Sessions Judge and acquit the accused petitioner from the charge levelled against him.

6. In the result, the revision petition is allowed. Accused petitioner is acquitted. His bail bonds and sureties shall be released forthwith.