

(2000) 01 GAU CK 0004
In the Gauhati High Court
Case No : Civil Rule No. 4720/98

Har Kumar Das

APPELLANT

Vs

Bharat Petroleum Corporation Ltd. and Others

RESPONDENT

Date of Decision : 20-01-2000

Acts Referred:

Essential Commodities Act, 1955 — Section 3

Citation : AIR 2000 Guw 123 : (2000) 3 GLT 519

Hon'ble Judges : J.N. Sharma, J

Bench : Single Bench

Advocate : N. Dutta and U. Bhuyan, for the Appellant; C. Baruah and P.J. Saikia, for the Respondent

Judgement

J.N. Sarma, J.—The petitioner herein was convicted for murder. He has completed his sentence and has come out from the jail. His conduct in the jail was praiseworthy and satisfactory.

2. Be that as it may, there was an advertisement issued by the respondents for distributorship/dealership of L.P.G. The petitioner wanted to apply for the same but there was a condition in Clause 5 which reads as follows :

"5. Candidates convicted in any criminal case involving moral turpitude/economic offence and those against whom cases have been registered in the Court (other than freedom struggle) are not eligible to submit application)."

3. This clause has been introduced in a most casual manner, as it will be seen even if case is registered in a Court he is not eligible to submit application. If that is allowed some person out of grudge alone may file a case and get it registered in the Court. That will not make a person criminal. Further, whether a murder per se will come within the definition of moral turpitude or not that also doubtful. A murder may be for sudden provocation, if always may not be schemed/planned. Such a murder/crime will not come within the sweep of moral turpitude. The Supreme Court considered the concept of moral turpitude in In

The Matter of P. An Advocate, in connection with Advocate's Act and there the Supreme Court pointed out as follows :

"Wherever conduct proved against an Advocate is contrary to honesty, or opposed to good morals, or is unethical, it may be safely held that it involves moral turpitude."

4. This aspect of the matter was considered in Baleshwar Singh Vs. District Magistrate and Collector, Banaras and Others, wherein the single Judge of the Allahabad High Court pointed out as follows (at page 74) :

"The expression "moral turpitude" is not defined any where. But it means anything done contrary to justice, honesty modesty or good morals. It implies depravity and wickedness of character or disposition of the person charged with the particular conduct. Every false statement made by a person may not be moral turpitude, but it would be so if it discloses vileness or depravity in the point of any private and social duty which a person owes to his fellowmen or to the society in general. If, therefore, the individual charged with a certain conduct owes a duty, either to another individual or to the society in general, to act in a specific manner or not to so act and he still acts contrary to it and does so knowingly, his conduct must be held to be due to vileness and depravity. It will be contrary to accepted customary rule and duty between man and man."

5. There the Allahabad High Court was considering the conviction under Sections 107 and 182 of the I.P.C. The Allahabad High Court pointed out that conviction u/s 107 cannot be deemed to be moral turpitude but the other conviction was held to be moral turpitude. Be that as it may, in this particular case it is not necessary.

6. In Kuldeep Singh and others Vs. State of Punjab and others, the Division Bench of the Punjab and Haryana High Court pointed out that act of killing a person is normally attributed to a feeling of hurt or revenge; an act of personal vendetta, per se an act of murder will not come within the broad concept of "moral turpitude. In paragraphs 13 and 14 it has been stated as follows (at page 247) :

"13. Whether an offence involves moral delinquency is a question of fact depending on the public morals of the time; common sense of community and context and purpose for which the character of offence is to be determined. In common parlance "moral turpitude" means baseness of character. Concise, Oxford Dictionary defines "moral" -- concerned with goodness or badness of character or disposition or with distinction between right and wrong. virtuous in general conduct....." Turpitude" means "baseness, depravity, wickedness. "Thus any act which is contrary to good morals from society's point of view will come within the ambit of "moral turpitude." Dealing with the term "moral turpitude" this Court in case reported as Durga Singh Vs. The State of Punjab, held as under-

"The term "moral turpitude" is rather vague one and it may have different

meanings in different contexts. The term has generally been taken to mean to be a conduct contrary to justice, honesty, modesty or good morals and contrary to what a man owes to a fellowman or to society in general. It has never been held that gravity of punishment is to be considered in determining whether the misconduct involves moral turpitude or not."

"14. Act of killing a person is normally attributed to a feeling of hurt or revenge; and act of personal vendetta. Per se an act of murder will not come within the broad concept of "moral turpitude" as interpreted by Courts. Even otherwise, nomination papers of petitioners Nos. 5 and 10 were not rejected on this ground. Thus we find merit in this plea also."

7. I respectfully agree with this position and I hold that a murder per se cannot be moral turpitude. The murder by the petitioner also will not be moral turpitude. There is no need to go into the deep in the matter inasmuch as an affidavit-in-opposition has been filed by the respondents wherein it has been stated that they have accepted the tender of the petitioner and further they will consider the application. I direct that the respondent No. 1 shall not consider the act of murder by the petitioner as moral turpitude in view of the above position of law. Accordingly, this writ application shall stand disposed of.