

(1966) 08 OHC CK 0001

In the Orissa High Court

Case No : Criminal Reference No. 42 of 1965

Hirsa Singh Thakur and Another

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 04-08-1966

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 263
Essential Commodities Act, 1955 — Section 7, 8

Citation : (1966) 32 CLT 1026

Hon'ble Judges : Das, J

Bench : Single Bench

Advocate : R.C. Ram, for the Appellant; K.C.J. Ray, for the Respondent

Judgement

Das, J.—This is a Reference by the Sessions Judge, Bolangir, recommending to set aside the conviction and sentence passed upon the Petitioners under the Essential Commodities Act as they were dealing in food-grains without obtaining a licence as required under the Orissa Food Grains Licensing Order, 1959

2. In a summary trial, the Magistrate convicted the accused persons and sentenced them under Sections 7 and 8 of the Essential Commodities Act.

3. The learned Sessions Judge has noticed some irregularities in the said trial and has recommended to set aside the order of conviction and sentence of the accused-Petitioners. The main irregularity committed by the Magistrate seems to be that he has not complied with the provisions of Section 263, Criminal Procedure Code. A Magistrate exercising summary powers has to strictly comply with the provisions of Section 263, Criminal Procedure Code. Section 263(h) enjoins upon the Magistrate to give a finding and to give a brief statement of the reasons thereof. Even in summary trials the statement of reasons for a conviction which the Magistrate is bound to record, should present a clear statement of the facts constituting the offence and should show that each of the ingredients necessary for a conviction has been considered and found to be proved.

4. There is nothing in the judgment of the learned Magistrate to indicate that he applied his mind to any of the ingredients of the offence sought to be made out against the Petitioners. The Magistrate while exercising summary jurisdiction appears to have made the proceedings more summary. The order of conviction and sentence passed by the learned Magistrate must accordingly be set aside. He is directed to re-heat the case and dispose of the same in accordance with law. He may, if he thinks it proper try the case in regular manner. If the said Magistrate is not available the District Magistrate, Bolangir, may transfer the case to the Court of some other Magistrate competent to try the case.

The Reference is accepted.