

(1991) 04 SC CK 0043
In the Supreme Court Of India
Case No : Criminal Appeal No. 315 of 1991

Jayant Kumar Sharma

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 18-04-1991

Acts Referred:

Essential Commodities Act, 1955 — Section 3(7)

Citation : AIR 1991 SC 1501 : (1991) JLJ 444 : (1991) 3 JT 15 : (1991) 2 SCC 414 Supp

Hon'ble Judges : Yogeshwar Dayal, J;K. Jagannatha Shetty, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Special leave granted.
2. The appellant has been prosecuted for violating the provisions of Clause 6(4) of the Madhya Pradesh (Khadya Padarth) Sarvajanik Nagrik Poorti Vitran Scheme, 1981, and convicted u/s 3(7) of the Essential Commodities Act. He was sentenced one year imprisonment, the validity of which has been impeached in this appeal.
3. The appellant was given permit for the sale of foodgrains in the village Kotetara at the weekly bazar held once in a week. On the date of the weekly bazar he lifted certain foodgrains from the Baradwara branch of the Food Corporation of India. It was in the evening at about 5.00 p.m. on that day. He had no vehicle except, the bullock-cart to transport the foodgrains to Kotetara. Kotetara is about 14 kilometers away from Baradwara. He has no shop at Kotetara for storing the foodgrains and therefore, he kept the same at Baradwara at his cycle-shop. What happened thereafter is in dispute. According to the appellant he straight went to the Baradwara Police Station and informed the Station House Officer (SHO) that he has kept the foodgrains in his cycle-shop since he could not transport the same to Kotetara. According to the SHO upon getting the information that the appellant has concealed foodgrains without

distributing the same at Kotetara he raided the place and seized the foodgrains. At the time of seizure the appellant gave an application that he has kept the foodgrains at that place since he could not get conveyance for transporting the foodgrains to Kotetara. Ex. P.2 is the application admittedly given by the appellant to the SHO. If that application has been given by the appellant in the Police Station as contended by him the police indeed have no case to prosecute the appellant.

4. We have heard counsel on both sides and also perused the entire material on record. We are inclined to believe that the appellant has given Ex. P.2 to the SHO at the Police Station. This is also corroborated from the contents of the First Information Report in which there is reference to the fact that the appellant did visit the Police Station before the search and seizure of the foodgrains by the SHO.

5. Even otherwise it will be seen that the prosecution of the appellant is unjustified. The foodgrains were required to be distributed on the shandy day at Kotetara. He lifted the foodgrain at Baradwara in the evening of such a day. So there was no question of distribution of the foodgrains on that day itself. He has to wait for the next weekly shandy day. He has not attempted to sell the same at Baradwara. He has stored it at the cycle-shop. It is, therefore, not legitimate to infer that the appellant has kept concealed the foodgrains for sale in the black market.

6. In the result we allow the appeal, set aside the conviction and sentence, and acquit the appellant from all the charges levelled against him.