

(2015) 02 MP CK 0150

In the Madhya Pradesh High Court

Case No : Criminal Revision No. 1180 of 2014

Kasturnath and Others

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 05-02-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 397, 401
Explosive Substances Act, 1908 — Section 5, 6
Explosives Act, 1884 — Section 12, 5, 9(B)(1-B)

Citation : (2015) 3 MPHT 248

Hon'ble Judges : Alok Verma, J

Bench : Single Bench

Advocate : A.S. Garg, Senior Advocate and Satish Jain, for the Appellant; R.S. Parmar, Panel Lawyer, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Alok Verma, J.

1. This criminal revision under Section 397 read with Section 401 of Cr.P.C. is directed against the order passed by the learned 2nd Additional Sessions Judge, Neemuch in Session Trial No. 23/2013, dated 30-6-2014 by which the learned Additional Sessions Judge framed charges under Sections 9(B)(1-B) and in alternative 9(B)(1-B) read with Section 12 of Explosives Act, 1884 and Section 5 and in alternative Section 5 read with Section 6 of Explosive Substances Act. Before proceeding with the order, it may be mentioned here that the revision in respect of applicant No. 1 was withdrawn by the Counsel for the applicants on 21-1-2015 and, therefore, this revision relates only in respect of applicant Nos. 2 and 3. Applicant No. 2 is Director of M/s. Super Shiv Shakti Chemicals and applicant No. 3 is Manager of this Company. The Company possessed license for production of explosives. As per the facts stated in the application, the Company sold 600 cartons to M/s. Shiv Shakti Enterprises, Bhilwara, Rajasthan and Shiv Kripa Enterprises, Chittorgarh, Rajasthan. 300 cartons each containing power

blast Jelatin rods were sold to these two customers and at the relevant time the cartons were being transported to these consignees while the vehicle, which was authorised to transport explosive substance by Competent Authority entered into the State of Madhya Pradesh and the vehicle was intercepted by Police Singoli, District Neemuch. As per the prosecution story, the Statutory Forms RE-6 and RE-12 specific route passing through the State of Madhya Pradesh was not mentioned and, therefore, it was the prosecution case that explosive substance was brought illegally into the State of Madhya Pradesh with a view to supply it for some illegal activity.

2. After charge sheet is filed, the learned Magistrate framed the charges as aforesaid and, therefore, aggrieved by which, this application is filed on the ground that:--

"(i) No sufficient grounds were present for proceeding against the present applicants under Section 9(B)(1-B) of Explosives Act, 1984 and Section 5 of Explosive Substances Act and other relevant rules.

(ii) The Company was having a license for the production and sale of explosives and the license is valid till 31-3-2017.

(iii) The consignees were also having license for purchasing and transportation of explosive substances, which were also valid till 31-3-2017 and 31-3-2016 respectively.

(iv) Explosive was being transported under valid documents and, therefore, no illegality or violation of any provision of law was committed by the present applicants and the learned Court below erred in framing the charges against them."

3. According to applicants, no route is prescribed in Statutory Forms, which are mandatory for transportation of such explosives. The present applicants were only under obligation to inform the Superintendent of Police and District Magistrate of the District from where the consignment commence its journey and the same authorities of the district of destination. On these grounds, inter alia, the applicants pray that the impugned order be set aside and they be discharged from charges under the sections as aforesaid.

4. Learned Counsel for the applicants draw attention of the Court towards Form RE-12 at page 79, which is in prescribed form and there is no column for route by which the explosive shall be transported to their destination. The Superintendent of Police and District Magistrate of respective District were given information of transportation of explosive. Similarly, in Form RE-6 also there is no column for specific route by which the explosive would be carried.

5. It is admitted fact that the vehicle was having national permit. The vehicle was also authorised by Competent Authority for transportation of explosive. The Company is a license manufacturer of all the explosives and in this view of the matter, so far as, these two applicants are concerned, there appears to be no

violation of any statutory provision by them.

6. So far as, allegation that the explosive substance was being transported without any guard in the vehicle is concerned, the same is not concerned with the present applicants and this was the responsibility of the driver and the transporter while the present applicants are officers of the Company, which produced the explosives.

7. Under these circumstances, the application deserves to be allowed and is allowed. The applicant Nos. 2 and 3 are discharged from charge under Sections 9(B)(1-B) and in alternative 9(B)(1-B) read with Section 12 of Explosives Act, 1884 and Section 5 and in alternative Section 5 read with Section 6 of Explosive Substances Act. Their bail bonds are discharged. With that observation and direction, the application stands disposed of.