

(2015) 07 AHC CK 0241

In the Allahabad High Court

Case No : Criminal Misc. Application No. 4974 of 2013

Lokesh Shukla

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 14-07-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 15, 190, 482
Essential Commodities Act, 1955 — Section 3, 7

Citation : (2015) 8 ADJ 759

Hon'ble Judges : Akhtar Husain Khan, J.

Bench : Single Bench

Advocate : Rakesh Pathak and Vijay Pathak, for the Appellant

Final Decision : Allowed

Judgement

Akhtar Husain Khan, J.—Heard learned counsel for the petitioner as well as learned A.G.A. Present petition has been moved by petitioner Lokesh Shukla under Section 482, Cr.P.C. with prayer to quash order dated 7.2.2013 passed by learned Special Judge, EC. Act, Faizabad whereby final report in Case Crime No. 401 of 2009, under Section 3/7 Essential Commodities Act, police station Kumarganj, district Faizabad has been rejected and petitioner has been summoned for offence under Section 3/7 Essential Commodities Act.

2. Offence under Section 7 of the Essential Commodities Act is punishable with imprisonment which may extend upto seven years. In First Schedule of Criminal Procedure Code, classification of offence against other laws has been given, which is reproduced below:

3. After having gone through above entries of First Schedule of Criminal Procedure Code as well as maximum punishment prescribed for offence punishable under Essential Commodities Act, it is apparent that offence under Section 3/7 Essential Commodities Act is triable by Magistrate.

4. It is relevant to mention that Special Courts for offence under Essential

Commodities Act had been constituted in pursuance of amendment made by The Essential Commodities (Special Provision) Act, 1981 (Act No. 18 of 1981). This amendment was effected for fifteen years only. After expiry of fifteen years, this amendment has not been extended and has ceased to have effect after expiry of fifteen years. Therefore, Special Court constituted in pursuance of said amendment made by Act No. 18 of 1981 ceased to have jurisdiction for trial of offences under the Essential Commodities Act at present.

5. In view of above, after having gone through First Schedule of Code of Criminal Procedure, it is apparent that offence under Section 3/7, Cr.P.C. is triable by Judicial Magistrate/Chief Judicial Magistrate in accordance with allocation of work made by Chief Judicial Magistrate under Section 15 of the Code of Criminal Procedure.

6. In view of above, impugned order passed by learned Special Judge, EC. Act, Faizabad on final report submitted by police is completely without jurisdiction and contrary to law.

7. In view of above, further proceedings in pursuance of impugned order passed by learned Special Judge, E.C. Act, Faizabad shall be a futile exercise and wastage of time.

8. In view of above, the present petition is allowed and impugned order dated 7.2.2013 passed by learned Special Judge, E.C. Act, Faizabad is quashed with liberty to prosecution to place final report submitted by police in Crime No. 401 of 2009, under Section 3/7 Essential Commodities Act, police station Kumarganj, district Faizabad before Judicial Magistrate, who is competent to take cognizance under Section 190 of Code of Criminal Procedure. Said Judicial Magistrate shall proceed further afresh in accordance with law. Senior Registrar shall send a copy of this order to District 8B Sessions Judge, Faizabad for information and necessary action.