
(2011) 04 JH CK 0013
In the Jharkhand High Court
Case No : Criminal M.P. No. 4441 of 2001

Manoj Saw

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision : 01-04-2011

Acts Referred:

Essential Commodities Act, 1955 — Section 7

Citation : (2011) 04 JH CK 0013

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Final Decision : Allowed

Judgement

R.R. Prasad, J.—Heard learned Counsel appearing for the Petitioner and learned Counsel appearing for the State.

2. On 11.8.1998, when search was made in the shop-cum-residential premises of the Petitioner, 35 containers each containing 15 litres of Tisi Oil was found stored. On assumption that one cannot store more than 1 and ? quintal of Edible Oil, the said Tisi Oil was seized and a case was registered as Giridih (Town) P.S. Case No. 169 of 1998 dated 11.8.1998 u/s 7 of the Essential Commodities Act. After investigation, the Investigating Officer submitted charge sheet u/s 7 of the Essential Commodities Act, upon which cognizance of the said offence was taken on 12.11.1998. At the same time, a confiscation proceeding, vide Confiscation Case No. 33 of 1998/1 of 2001 was also initiated by Deputy Commissioner, Giridih.

3. After hearing learned Counsel appearing for the parties, the Deputy Commissioner, Giridih confiscated 5.25 quintals of Tisi Oil, vide its order dated 24.2.2001. In this backdrop, the entire criminal proceedings of criminal case and also the order taking cognizance as well as the order dated 24.2.2001 passed in confiscation case, confiscating 5.25 quintals of Tisi Oil were sought to be quashed on the ground that on the day when articles were seized, there was no storage

limit as the limit prescribed under the Edible Oil Seed and Edible Oil Storage Limit (Order) 1977 had already been lifted, vide notification dated 10.11.1997 issued by the Central Government published in the Gazette of India Extraordinary.

4. This point was also taken before the confiscating authority but the confiscating authority did not care to look into this aspect of the matter. He by ignoring this fact, passed order on 24.2.2001 whereby articles in question were confiscated. The aforesaid fact of lifting of storage limit has not been controverted by the State.

5. In this situation when there was no storage limit relating to edible oil, no offence is made out u/s 7 of the Essential Commodities Act, even if 5.25 quintals of edible oil was found stored in the shop-cum-residential premises of the Petitioner.

6. Accordingly, the entire criminal proceeding of Giridih (Town) P.S. Case No. 169 of 1998 including the order taking cognizance and also the order dated 25.9.2005 passed by the confiscating authority is hereby set aside.

7. In the result, this application is allowed.