

(2012) 03 UK CK 0023

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 644 of 2006

Naseem Ahmed

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 19-03-2012

Acts Referred:

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

Citation : (2012) 03 UK CK 0023

Hon'ble Judges : Servesh Kumar Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Hon"ble Servesh Kumar Gupta, J.—The challenge in this petition is to the order of cognizance dated 2.5.2006, passed by the Additional Chief Judicial Magistrate, Roorkee, District Haridwar in Criminal Case No. 4/2006, State v. Naseem Ahmed, whereby the accused applicant has been summoned to stand trial for the offence u/s 3/7 of the Essential Commodities Act. Briefly stated facts of the case are that accused applicant was having license to run a fair price shop in village Jaurasi Jabardastpur, Pargana Roorkee, to supply various foodstuffs to the residents of that village and surrounding area at the controlled price of the Government. In the morning hours of 28.9.2005, when the police party of the concerned police station Manglore was on patrolling duty in the said area, a rickshaw puller was apprehended while carrying four bags filled with rice (weight almost two quintals). He disclosed his name as Shahnawaj and stated that the said rice bags were bring brought by him from the fair price shop of the accused applicant, who had directed him to drop the same at the shop of one Anil Singhal @ Anju situated near Landhora Market. The police party immediately informed about it to the Sub-Divisional Magistrate, Roorkee, who in turn directed the concerned Food Supply Inspector Ramesh Chandra to take apposite action in the matter. When the Supply Inspector inspected the fair price shop of the accused applicant, he was absent and no record of details of articles was found at his shop. Hence, in

furtherance of administrative action, the license of accused applicant Naseem Ahmed for running the said fair price shop was cancelled, and an FIR with these averments was lodged on 28.9.2005 with PS Manglore. The investigation resulted in submission of chargesheet, whereupon the learned Magistrate has passed the impugned order of cognizance.

2. Learned Counsel for the applicant argued that neither in the FIR nor in the chargesheet and not even in the impugned order of cognizance, it has been mentioned that as to which control order the accused applicant has violated.

3. This Court is not inclined to accept the argument of learned Counsel for the applicant because it has been specifically alleged that the rice, which were meant for supplying to the ration card holders of the area, were being diverted in black market. The present dispute involves factual questions, which cannot be decided by this Court in its jurisdiction u/s 482 CrPC. It can be decided only after adducing the oral and the documentary evidence by the parties before the trial court, and not by this Court only on the basis of papers filed on the record.

4. For the reasons recorded above, this Court is of the view that in the present case there is neither any miscarriage of justice nor any abuse of process of Court. The petition is devoid of merit and deserves to be dismissed.

5. Resultantly, this petition is dismissed. Interim order dated 8.8.2006, passed by this Court, stands vacated. Registry is directed to inform the court concerned accordingly.