

(1983) 08 AHC CK 0017

In the Allahabad High Court

Case No : Criminal Misc. Application No. 6419 of 1983 & Criminal Miscellaneous Application No. 6419 of 1983

Naththoo Mal Agarwal and Sons and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 11-08-1983

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 190(1), 482
Essential Commodities Act, 1955 — Section 3, 7
Uttar Pradesh Rice and Paddy (Levy and Regulation of Trade) Act, 1981 — Section 3(2), 3(4)

Citation : (1983) 7 ACR 427

Hon'ble Judges : M. Wahajuddin, J

Bench : Single Bench

Advocate : V.P. Goel, for the Appellant;

Judgement

M. Wahajuddin, J.—The applicants have come forward with a prayer that the FIR dated 21-7-1983 and further proceedings in case crime No. 204 of 1983 P.S. Sashni Gate, Aligarh may be quashed. A prayer for restraining the arrest of the applicants has also been made.

2. The FIR of the case recites that the maker of the report accompanied by some others was on 20-7-1983 at about 9 P.M. carrying checking of the vehicles at Sashni Gate Chauraha, Aligarh appertaining to Essential Commodities. During such checking in the night intervening 20-7-1983 and 21-7-1983 about 2.30 A.M. truck No. UTL 9240 arrived from the direction of Aligarh. 150 bags of rice common Arwa was found therein. The truck was being taken from Meerut concern mentioned therein for Aligarh concern. Besides the driver and cleaner there were some other persons in the truck. On demand certain papers were furnished and it was also given in writing that there were no other papers with the persons concerning rice. There were no papers concerning giving of levy nor release certificate. A memo was prepared and contravention of the concerned licence order etc. has been made and offence u/s 3/7 of the Essential

Commodities Act has been committed.

3. It is urged that M/s. Natbthoo Mal Agarwal & Sons carries on business as whole-sale and Commission Agent in the food grains through its partners Applicants No. 2 to 6 and the applicant No. 1 that is Firm is dealing in the sale and purchase of rice in and outside of State of U.P. and various quantities were purchased from various concerns at Delhi and necessary formalities concerning Sales Tax Act were observed. The firm was entitled to store 500 quintals of rice as whole sale dealer and 500 quintals of rice as commission agent. It was further urged that under a certain general order of June 1980 no levy was payable on rice purchased from outside the U.P. and the levy order does not apply to the applicants. There were due entries concerning the purchase and there were documents showing that purchase was from Delhi and no levy was to be paid. The incident is of 21-7-1983. At that time the relevant provisions that was in force was Uttar Pradesh Rice and Paddy (Levy and Regulation of Trade) Order 1981. This notification is later to the notification referred to by the applicants. Section 3(2)(ii) is important and provides for levy and Section 3(4) and its proviso lays down for levy certificate and release certificate and also lays down that when rice is being moved by the road, the driver or person in charge must possess a certificate from Marketing Inspector to the effect that rice being moved is part of release lot. It should also indicate the name, licence number etc. As I am going to reject this application I may not go into further details to in any way influence the investigation in the matter. I may approach the case simply from the angle whether any interference at this stage u/s 482 Code of Criminal Procedure will be desirable. I may at the very outset observe that while powers u/s 482 Code of Criminal Procedure are wide and in suitable cases where there are strong justification even investigation can be quashed, powers are not to be exercised lightly. The framers of the Code of Criminal Procedure have provided for a complete procedure for the First Information Report and investigation by the police in cognizable cases. Cases in the Essential Commodities Act are cognizable cases and it would amount to interfering with the statutory obligation and duty of the police to investigate such cases. In fact, provisions for investigation exist to serve the ends of justice and to help the Court. They are salutary provisions and normally any interference with such provisions may rather tend to defeat the ends of justice. When any levy certificate or release order did not exist question of fact will need thorough probe. The FIR recites that actually the truck was being taken from concern at Meerut for Agra meaning thereby that the movement was inter province. I am concerned with the prima facie averments as contained in the FIR. In fact, if this Court in the exercise of its inherent powers u/s 482 Code of Criminal Procedure starts making inquiries in the nature of investigation the normal procedure would not only be defeated but it would also amount to taking the responsibility and burden of the investigation upon itself which would neither be conducive to the smooth procedure nor would be in any way desirable. An Independent agency for conducting investigation exists and it is better that such agency should fully investigate the matter to

ascertain the true facts. It is always open to the police to submit even a final report if the case is not made out. The court also then exercises its supervisory supervision because it can either take cognizance or refuse to take cognizance for certain reasons u/s 190(1)(b) of the Code of Criminal Procedure. While I could have dismissed this application summarily without entering into the detailed discussion of the scope of Section 482 Code of Criminal Procedure, I consider it desirable to formulate an opinion on that aspect also and lay down the same. This application is summarily rejected.