
(1960) 03 MP CK 0001

In the Madhya Pradesh High Court

Case No : Criminal Revision No. 408 of 1959

Paltu Matabadal

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 09-03-1960

Acts Referred:

Evidence Act, 1872 — Section 51

Citation : AIR 1961 MP 5 : (1961) CriLJ 88 : (1960) JLJ 572 : (1960) 5 MPLJ 647

Hon'ble Judges : P.R. Sharma, J

Bench : Single Bench

Advocate : Rajendra Singh and P.C. Pathak, for the Appellant;

Final Decision : Allowed

Judgement

P.R. Sharma, J.

The applicant Paltu has been convicted by the Magistrate First Class Bilaspur u/s 34 (a) of the C.P. and Berar Excise Act and sentenced to undergo rigorous imprisonment for four months and to pay a fine of Rs. 100/- or in default to undergo further rigorous imprisonment for one month. An appeal preferred by him against his conviction and sentence was partly allowed by the First Additional Sessions Judge Bilaspur. He has now come up, in revision before this Court.

The applicant runs a grocery shop as mouza Pendra and also holds a licence for sale of "Ganja". On 7-7-1957 Excise Sub-Inspector Shri D.K. Singh and Shri Jeewanlal went to the shop of the accused. On their arrival they noticed that the accused was trying to conceal sun aluminium container beneath his wooden dias. Shri Jeewanlal took the container from the hands of the accused. On being opened it was found to contain 3 tolas of foreign "Ganja",.

The applicant was on the facts stated above tried and convicted u/s 54 (a) of the C. P. and Berar Excise Act.

It appears from the statement of P.W. 1 -- Shri D.K. Singh that none of the

persons who entered the shop gave their personal search He has stated that the "Ganja" contained in the aluminium container is foreign "Ganja" but has stated no reasons on which his opinion is based.

It was held in the case of Ramkaransingh v. Emperor, AIR 1935 Nag 13, that though the Excise Inspectors may be treated as experts in their own branch it is the duty of the Court to ascertain from them the reasons on which their opinion is based in order that the Court may come to its own conclusion as to the correctness or otherwise of the opinion given by them. No grounds were stated in this case either by P. W. 1 -- Shri D.K. Singh or P.W. 3 -- Shri Jeewanlal in support of their opinion to the effect that the "Ganja" seized from the shop of the accused is foreign "Ganja". The accused was at the time of the incident a licensed "Canja" vendor, the prosecution was therefore, bound to prove that the muddemal "Ganja" did not belong to the class of the commodity which, is ordinarily issued for sale. No grounds were shown on which such an inference could be based.

The conviction of the present applicant cannot, therefore be maintained.

This revision application is, therefore, allowed. The conviction and sentence passed against the applicant are hereby set aside. His bail-bonds are cancelled. The amount of fine shall if realised from the applicant be refunded to him.