(1992) 10 P&H CK 0048

In the Punjab And Haryana At Chandigarh

Case No : Criminal Appeal No. 294-SB of 1986

Rattan Lal — APPELLANT

Vs

State of Haryana — RESPONDENT

Date of Decision : 28-10-1992

Acts Referred:

Citation : (1993) 1 AICLR 606 : (1993) 1 RCR(Criminal) 670

Hon'ble Judges : J.B.Garg, J

Advocate : P.K. Mutneja, Sivir Dewan, Advocates for appearing Parties

Judgement

J.B. Garg, J.

1. Rattan Lal son of Ram Sarup has been convicted under Section 7 of the Essential Commodities Act by the Presiding Officer of the Special Court, Karnal on 26.4.1986 and sentenced to undergo R.I. for 3 months and to pay a fine of Rs. 2,000/. In default of payment of fine he was required to undergo R.I. for a period of 2 months. Aggrieved against it, the present appeal has been attempted.

2. Briefly, the story of the prosecution is that on 22.11.1985, Shri Ramesh Chander, Cane Development Officer, Panipat, along with the witnesses, went to the Power Crusher of the accused, installed in the area of village Garhi Behsak, and found him manufacturing Gur. The accused did not possess nor could show any licence. A ruqa Ex. PA was sent by the complainant to Police Station, Sadar, Panipat, where an FIR was recorded on 5.12.1985. Shri Niranjan Singh ASI reached the premises of the accused and took into possession the power crusher together with its components. About 20 quintals of sugarcane, weights and measures, etc. were also taken into possession. The sign board of M/s. Kashyap Khandsari Udyog was also taken into possession together with the cash book vide memo Ex. PC/2. It was in violation of Section 4 of the Essential Commodities Act, 1955.

3. The learned Counsel for the appellant has argued that any part of the Gur manufactured, was not taken into possession nor brought to the Police Station.

The statement of PW1 Shri S.P. Verma, Assistant Cane Development Officer, Panipat, recorded in the trial Court, has been referred to and he has specifically said that Rattan Lal was manufacturing Gur, at his Power Crusher known as K/s. Kashyap Khandsari Udgog. He has also deposed that the Manager of the Bank was also present with them and the accused had obtained loan for setting up the aforesaid unit. This has been further corroborated by PW3 Shri Niranjan Singh ASI, who has deposed that Kohlu of the accused was taken into possession together with sugarcane, weights and measures. The Karahas and the Khoi were also lying there but not taken into possession. The occurrence in question of manufacturing Gur without a licence too place and was found on 2.12.1985 and it was in violation of the Notification issued on 29.11.1985. The date of Notification is not disputed here as well.

4. The complainant visited the place of occurrence on 22.11.1985 and 26.11.1985 as well though there was no notification by that time. It is an admitted fact that the notification in question prohibiting the manufacture of Gur by means of a power crusher was issued on 29.11.1985 and the commission of its breach came within the purview of Section 7 of the Essential Commodities Act on 2.12.1985 when the accused was apprehended as seen above.

5. Eicher Engine, Kohlu, the weights and measures, sugarcane etc. were also taken into possession by the police and subsequently released on the application which the appellant moved in the trial Court on 4.2.1986. There was no reason for PW1 Shri S.P. Verma, Assistant Cane Development Officer and PW3 Shri Niranjan Singh ASI to depose falsely against the accused.

6. The evidence of DW1 Alisher cannot said to be helpful to the accused because it was never the case of the prosecution that by the time Alisher reached along with PW3 Shri Niranjan Singh ASI, the Gur was behind actual manufactured.

7. The learned Counsel for the appellant has referred to Tek Ram v. The State of Haryana, C.A. No. 263SB of 1986, decided on 5.12.1989. In that case, the distinguishing feature was that the letter by the Cane Commissioner was received on 29.11.1985 and the accused was convicted in respect of the violation made by him on 27.11.1985 and thus the aforesaid case cannot be said to be helpful to the present appellant.

8. In view of the evidence and reasons discussed above, there is no good ground to disturb the finding of guilt. As regards quantum of sentence, the learned Counsel was stressed that the appellant is a first offender and a lenient view may be taken. The learned Counsel has referred to T. Susila Patra and another v. State, III 1987(1) Crimes 654, where, in a case under Essential Commodities Act, 1955, there was an omission of displaying the stocks and the benefit of Section 360 of the Code of Criminal Procedure was granted to a woman convict. In Bhagaban Sahu v. State, 1988 Crl. L.J. NOC 76, an accused who belonged to a remote village was given benefit of Section 360 of the Code of Criminal Procedure for not displaying the opening stock of an essential commodity. In

Joginder Singh v. The State of Punjab, 1980 Crl. L.J. 1218, a Full Bench of this Court held that the prescription of the minimum sentence in the Punjab Excise Act, 1914, does not bar the application of Section 350 of the Code of Criminal Procedure. In the case now in hand the occurrence took place about 7 years ago. The appellant has also underdone a part of the substantive sentence and in the circumstances, it is held that the period of substantive sentence undergone is considered sufficient. As regards the amount of fine there shall be no reduction and with this modification, the present appeal is dismissed.