

(2011) 04 PAT CK 0113

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 214 of 1995

Santu Prasad and Shatrughan Singh

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 25-04-2011

Acts Referred:

Essential Commodities Act, 1955 — Section 7

Citation : (2011) 59 BLJR 1427

Hon'ble Judges : Anjana Prakash, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Anjana Prakash, J.—The Appellants have been convicted u/s 7 of Essential Commodities Act and sentenced to RI for six months by a judgment dated 22.09.1995 by the Special Judge, E.C. Act, Aurangabad in G.R. Case No. 7/83.

2. The prosecution case is that on 06.05.1983 the informant received a secret information that the Appellant No. 2 had kept a stock of cement in the house of Appellant No. 1 and was intending to black-market the same. On this the house of the Appellant No. 1 was raided from where 100 packets of cement were recovered. Admittedly at the time of raid neither the Appellant No. 1 nor the Appellant No. 2 was present at the place of occurrence.

3. The prosecution examined six witnesses on its behalf out of whom P.W. 1 is the informant, P.W. 2 and P.W. 3 are formal witnesses. P.W. 4 is the Chowkidar who supported the prosecution case but he did not support the fact that any paper had been prepared in his presence. P.W. 5 is the son of the Appellant No. 1 who stated that no raid had been made in his presence. P.W. 6 is the cement dealer who is merely on the fact that the hundred packets of cement recovered from the house of Appellant No. 1 was sold by him.

4. The defence of the Appellants was that no license or paper was required for keeping cement since it was non-levy cement and the entire case is completely

baseless.

5. Considering the complete paucity of any evidence to sustain the conviction of the Appellants, the appeal is allowed and the judgment dated 22.09.1995 passed by the Special Judge, E.C. Act, Aurangabad in G.R. Case No. 7/83 is set aside. The Appellants are discharged of the liability of their bail bonds.