
(1996) 02 PAT CK 0006

In the Patna High Court

Case No : Criminal Miscellaneous No. 19674 of 1995

Smt. Kiran Bala Jain @ Smt. Kiran Bala

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 07-02-1996

Acts Referred:

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

Citation : (1996) 1 PLJR 730

Hon'ble Judges : A.N. Chaturvedi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

A.N. Chaturvedi, J.—This is an application u/s 482 of the Code of Criminal Procedure for quashing the entire criminal proceeding including the order taking cognizance dated 2.1.95 (Annexure 4) passed by the learned special judge (E.C. Act) Rohtas in G.R. case No. 823/95 arising out of Dehri P.S. case No. 172/95 whereby the learned Special Judge has taken cognizance of an offence u/s 7 of the E.C. Act for violation of the provision of Clause 3 of Bihar Trade Articles (Licences Unification) Order, 1984.

2. Heard the learned Counsel for the Petitioner and the State.

3. It appears that on 8.5.1995 the business premises of the Petitioner was inspected by the Supply Inspector, Dehri in presence of S.D.O. Dehri and on inspection 140 quintals, 20 K.G. of rice, 5 quintals and 60 K.G. of Masoor, 1 quintal Chana, 13 quintal and 30 K.G. Jau, 185 quintals and 72 K.G. wheat and 73 quintals 5 K.G. of Khesari were found which, according to the Supply Inspector, were in excess of the permissible limit prescribed under the provisions of Bihar Trade Articles (Licencing Unification) Order, 1984. On the written report of the Supply Inspector, police registered Dehri P.S. Case No. 172 of 1995 u/s 7 of the E.C. Act and after investigation, submitted charge sheet (Annexure 3) against the Petitioner and by the impugned order dated 2.11.1995 the learned

Special Judge took cognizance of an offence u/s 7 of the E.C. Act.

4. As mentioned earlier, the Petitioner is alleged to have violated the provision of Clause 3 of Bihar Trade Articles (Licences Unification) Order, 1984. The said Clause provides that no dealer shall, after the commencement of the said Order carry on business of purchase, sale or storage for sale of any of the trade articles mentioned in Schedule 1 except under and in accordance with the terms and conditions of a licence issued in this behalf by the licensing authority under the provisions of the said Order. It further provides that no licence shall be required for a dealer who stores for sale at any one time the trade articles in quantities not exceeding the limits as may be prescribed by the State Government with prior concurrence of the Central Government for any trade article from time to time. It is not disputed that the Petitioner had no licence for carrying on business or purchase, sale or storage for sale of any of the trade articles as mentioned in the provision of the said Order. It is also not disputed that the foodgrains and pulses except Khesari found in the business premises of the Petitioner come under the category of trade articles.

5. It is not disputed that the State of Bihar by notification dated 23rd August, 1990 (Annexure 5) has fixed the storage limit for retail dealers as well as for wholesale dealers in foodgrains. Referring to the said notification (Annexure 5C) it is pointed out by the learned Counsel for the Petitioner that a person who has no licence to carry on business in foodgrains can store foodgrains up to 30 quintals but not exceeding that. Referring to Annexure 6, which is letter dated 30.9.1994 of the Government of India in the Ministry of Food, it is pointed out by the learned Counsel for the Petitioner that wheat and wheat products were excluded from the preview of licence. Referring to annexure 7 which is another letter dated 27.1.1995 of the Government of India in the Ministry of Civil Supplies, Consumer Affairs and Public Distribution, it is further pointed out by the learned Counsel for the Petitioner that keeping in view of this, it is Submitted by the learned Counsel for the Petitioner that due to abolition of stock limit of rice and wheat by the Central Government, the Petitioner cannot be said to have violated the provisions of Clause 3 of the said Order so far as rice and wheat are concerned. It is further submitted that when the total stock of Masur, Chana, Jau, found in the business premises of the Petitioner are taken into consideration, the same is within the limit of 30 quintals and that being so, the Petitioner cannot be said to have committed any offence u/s 7 of the E.C. Act nor can be said to have violated the provisions of Clause 3 of the said Order. In this connection, the learned Counsel for the Petitioner has referred to a decision of this Court reported in 1991 Bihar Revenue and Labour Journal page 83 in which it has been held that storage limit fixed on rice and wheat having been removed, no offence can be said to have been committed under the provisions of Bihar Trade Articles (Licences Unification) Order, 1984.

6. In view of what has been pointed out above, this Cr. Misc. case is allowed. The entire criminal proceeding including the order taking cognizance dated 2.11.1995

passed by the learned Special Judge are hereby quashed.