

(2012) 06 GUJ CK 0028
In the Gujarat High Court
Case No : Criminal Appeal No. 1115 of 1993

State of Gujarat	Vs	APPELLANT
Shakti Oil Depot		RESPONDENT

Date of Decision : 11-06-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313, 378
Essential Commodities Act, 1955 — Section 13, 7

Citation : (2012) 06 GUJ CK 0028

Hon'ble Judges : Z.K. Saiyed, J

Bench : Single Bench

Advocate : Jirga Jhaveri, apps, for the Appellant; P.M. Thakkar for
Opponent(s) : 1, for the Respondent

Final Decision : Dismissed

Judgement

Honourable Mr. Justice Z.K. Saiyed

1. The present acquittal Appeal has been filed by the appellant - original complainant, Supply Inspector, Bhavnagar, u/s 378 Cr. P.C., against the Judgment and order dated 17.3.1993 rendered in Criminal Case No.13 of 1987 by the learned Additional Sessions Judge, Bhavnagar. The said case was registered against the present respondent original accused for the offence u/s 13 read with Section 7 of the Essential Commodities Act. According to the prosecution case, on 27.9.1984 Shri R.B.Raval, Inspecting Officer, on inquiry found that on the board of price working hours were not mentioned. In the stock of groundnut-oil tins deficit of 30 tins were found. The accused could not produce bill of purchase and sell and even weighing scale was not there. The offence was registered against the accused.

2. Thereafter, investigation was carried out and statements of several witnesses were recorded. During the course of investigation, accused person was arrested and, ultimately, charge-sheet came to be filed against him in the Court of learned Magistrate.

3. Thereafter, charge came to be framed and explained to the accused person, to which the accused person not pleaded guilty and claimed to be tried.
4. In order to bring home the charges against the accused person, prosecution has examined several witnesses and also produced documentary evidence.
5. Thereafter, after filing closing pursis by the prosecution, further statements of accused person u/s 313 of the Code of Criminal Procedure, 1973 were recorded. The accused person has denied the case of the prosecution and submitted that a false case is filed against him.
6. At the conclusion of trial and after appreciating the oral as well as documentary evidence, the learned Judge vide impugned Judgment, acquitted the respondent - accused.
7. Being aggrieved by and dissatisfied with the said judgment and order of acquittal dated 17.3.1993 passed by the learned Additional Judge, Bhavnagar, the appellant - State has preferred the present appeal before this Court.
8. Heard Learned APP Ms. Jirga Jhaveri, appearing on behalf of the appellant - State. She has submitted that the accused is running business of edible oil in wholesale in Bhavnagar. The complainant visited the business premises of the accused on 27.9.1984 and found certain irregularities. Accused failed to mention business hours on Board. He also failed to submit bills of purchasing groundnut oil. Similarly the learned Judge failed to consider that there was no weighting scale in the shop and there was a deficit of 30 tins of oil from the stock.
9. That the learned Judge ought to have consider that the complainant is an Officer under Essential Commodities Act. He has no enmity with the accused. During the course of discharging his duties he found certain irregularities and therefore, ultimately he lodged case against the accused.
10. She has read oral version of P.W. No.1 and submitted that prosecution has proved case beyond reasonable doubt through oral versions of the complainant. She has submitted that the learned Judge has committed grave error and evidence of the complainant is not considered in proper manner.
11. She has submitted that learned Judge has erred in discarding the evidence of complainant and considering the defence of accused that Inquiry Case No.31 of 1986 was initiated against the accused, in which, three tins were confiscated and there was also order of fine.
12. She has also read oral version of P.W. No.2 and submitted that in cross-examination it is admitted by this witness that he has no personal knowledge but so far as documents produced on record are concerned, it should have been considered in favour of the prosecution. She has submitted that just due to some minor contradiction learned Judge has no right to acquit the present accused. She has prayed to quash and set aside the impugned judgment and order of acquittal.

13. Heard Mr.Joshi, learned advocate appearing for Mr.P.M.Thakkar, for the respondent - accused. Mr.Joshi has read date of the incident and contended that complainant is a Supply Inspector from the Office of Collector, Bhavnagar. He has read allegations made by the prosecution against the respondent and submitted that as per allegations of the prosecution it is the say of the prosecution that Board does not display working hours of the shop. There was deficit of 30 groundnut-oil tins and bills were also not produced at the time of raid. The stock-register is also not given to the authority and there was no weighting scale so case was filed and in the result prosecution failed to prove the case so the learned Judge acquitted present accused.

14. The complainant has admitted in his cross-examination that he has given in writing with regard to purchase bill and stock-register. He has submitted that it is admitted by the complainant that the respondent has shown bill and stock register and only three oil tins were confiscated whereas remaining oil tins were ordered to be released so the prosecution has failed to prove its case beyond reasonable doubt. He has also read statement recorded by the learned Judge and prayed that the judgment and order of acquittal is required to be confirmed.

15. Heard both the parties. I have gone through the papers produced in the Case. I have also gone through the evidence of P.W. No.1 and P.W. No.2 led before the trial Court. Both the witnesses are public servant. I have also gone through the Judgment of the trial Court. The learned Judge has rightly observed that from the admission of the complainant prosecution has not proved its case. The learned Judge has observed that, so far as question of deficit of 30 oil tins are concerned, the accused has given explanation that oil tins were sold without bills and list of persons to whom they were sold was produced before the Officer. So there is no question of committing any irregularities.

16. It is settled legal position that in acquittal Appeal, the Appellate Court is not required to re-write the Judgment or to give fresh reasonings when the Appellate Court is in agreement with the reasons assigned by the trial Court acquitting the accused. In the instant case, this Court is in full agreement with the reasons given and findings recorded by the trial Court while acquitting the respondent - accused and adopting the said reasons and for the reasons aforesaid, in my view, the impugned Judgment is just, legal and proper and requires no interference by this Court at this stage. Hence, this Appeal requires to be dismissed. In the result, the Appeal is hereby dismissed. The impugned Judgment and order dated 17.3.1993 rendered in Criminal Case No.13 of 1987 by the learned Additional Sessions Judge, Bhavnagar, acquitting the respondent - accused, is hereby confirmed. Record and Proceedings, if any, be sent back to the trial Court concerned, forthwith.