
(1990) 02 AHC CK 0090
In the Allahabad High Court
Case No : Government Appeal No. 524 of 1978

State of U.P.	Vs	APPELLANT
Shiva Prasad		RESPONDENT

Date of Decision : 22-02-1990

Acts Referred:

Uttar Pradesh Factories Rules, 1950 — Rule 3, 6

Citation : (1990) 1 AWC 746

Hon'ble Judges : R.R. Misra, J

Bench : Single Bench

Advocate : Triloki Nath, for the Appellant;

Final Decision : Dismissed

Judgement

R.R. Misra, J.—The opposite party was challenged for violation of Rule 3 read with Rule 6 of the U.P. Factories Rules 1950 On an inspection dated 12-2-1976 made by the Factory Inspector it was found that the accused was running the factory without obtaining the prior sanction as contemplated by the aforesaid rules By the impugned order dated 28-10-1977 the learned Magistrate has acquitted the accused on the ground that it has not been established that the premises in question were being used as a factory. Aggrieved the State has filed the above appeal in the year 1978.

2. I have heard State counsel and Sri. Triloki Nath, learned Counsel for the accused-opposite party and have gone through the record. I find that before the trial Court the Factory Inspector had filed his inspection report and in that report he was specifically stated that numbers of workers working in the factory were 60. It has also been established that the premises were being used as a Factory. In these circumstances it appears to me that the impugned order passed by the learned Magistrate was improper and unjustified under the law.

3. Learned Counsel for the accused in the alternative has also submitted that in view of a decision of the Supreme Court in the case of S. Guin v. Grindlays Bank

Ltd 1986 ACR 117, it will not be proper to order for retrial. In that case too the accused were challenged for obstructing bank officers from entering bank premises and transacting normal business. The trial Court had acquitted the accused on 27-6-1978 and the State had filed a Criminal Appeal No. 315 of 1978 before the Calcutta High Court. The view taken by the Supreme Court in that case is that in such circumstances even if the High Court comes to the conclusion that the judgment of the trial Court is improper, yet a re-trial should not have been ordered. So far as the facts of this case are concerned I find that there is sufficient force in the alternative contention raised on behalf of the accused that even if I am of the opinion that the acquittal of the accused was improper yet the case should not be ordered for re-trial, more so when the accused had admittedly filed an application for getting the plan of the factory sanctioned, although after the relevant inspection concerned.

4. In the result, the Govt. appeal fails and is dismissed.