
(1981) 01 AHC CK 0077
In the Allahabad High Court
Case No : Criminal Revision No. 2005 of 1980

Ujagar Singh

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 21-01-1981

Acts Referred:

Essential Commodities Act, 1955 — Section 3, 6

Citation : (1981) ACR 101

Hon'ble Judges : P.N. Bakshi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

P.N. Bakshi, J.—On 6-3-1980 at about 9 P.M. 5 bags of Sugar weighing about 4 quintals and one drum of Kerosene oil measuring about 80 liters were seized from the hotel of the applicant Sardar Ujagar Singh at Nausar crossing Gorakhpur u/s 3 of the Essential Commodities Act. The Sub Divisional Magistrate Gorakhpur directed that the said sugar and kerosine oil be sold by the Supply Officer of the Area through some fair price shop and the sale proceeds be deposited in court for being disposed of in accordance with law according to the decision of the case. Aggrieved by this order of the Sub Divisional Magistrate, Sadar an appeal was filed by the applicant before the Sessions Judge, Gorakhpur u/s 6(c) of the Essential Commodities Act. The appeal has been dismissed on the ground that it is not maintainable. The view taken by the Sessions Judge is that since there was no order of confiscation, hence no appeal was maintainable. Aggrieved by the order of the Sessions Judge, Gorakhpur dated 27th September, 1980, the applicant has come up in revision before this Hon"ble Court.

2. I have heard learned Counsel for the applicant and perused the impugned orders. It is not necessary for me to go into the technical question whether the appeal before the Sessions Judge Gorakhpur was competent or not, because in the exercise of revision powers, this Court can always interfere with the impugned order of the subordinate court, provided it is unjust and unfair. I find

that in the instant case 4 quintals of sugar and 80 liters of kerosene oil were seized by the Sub Inspector of Police. The case of the applicant was that it has been stored for the purposes of his hotel business. The merits of the case, one way or the other, would be decided in the original prosecution, which has been launched against the applicant. This Court is not in a position at this stage to give any specific finding on facts inter-parties which are in dispute. However, it has been argued by the applicant's counsel that if the sugar and the kerosene oil is sold away the return-price of these commodities would not be sufficient compensation to the applicant, in the event of his acquittal in the criminal case. He has prayed that these commodities may not be sold at his risk and may be allowed to remain as they are till the final disposal of the criminal prosecution.

3. Counsel for the State has no objection, if the commodities seized from the applicant including sugar and kerosene oil are not sold and allowed to remain at the risk of the applicant till the decision of the criminal prosecution.

4. In these circumstances, I hereby allow this revision and set aside the order of the Sessions Judge, as well as the order of the Sub Divisional Magistrate, Sadar directing the sale of the commodities in question. These commodities shall remain in the custody of the Sub Divisional Magistrate so long as the prosecution continues and orders with regard to their disposal shall be passed in accordance with the decision in the criminal case. It is desirable in the interest of justice that the criminal prosecution of the applicant should be decided as expeditiously as possible.