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**(2020) 05 CHH CK 0009**

**Chhattisgarh High Court**

**Case No:** Criminal Appeal No.1257 Of 2002

Jageshwar Ram Rajwade And Ors

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

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**Date of Decision:** May 21, 2020

**Acts Referred:**

- Code Of Criminal Procedure, 1973 - Section 313

**Hon'ble Judges:** Arvind Singh Chandel, J

**Bench:** Single Bench

**Advocate:** Indira Tripathi, Hanuman Prasad Agrawal, Smita Ghai

**Final Decision:** Allowed

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**Judgement**

Conviction,Sentence

Under Section 3(2)( ) of the Act read with

Section 7(1)(k)(ii) of the Act", "Rigorous Imprisonment for 6 months and fine of

Rs.1,000/- each with default stipulation

with the evidence available on record.,

10. As stated by Assistant Food Officer J.S. Tirki (PW5), the fair price shop in question was given total 1000 litres of kerosene for sale to the ration",

card holders. Out of the said quantity of kerosene, total 538 litres of kerosene was distributed and 442 litres of kerosene was found to be short and in",

the stock total 20 litres of kerosene was found. But, the prosecution has failed to submit any stock or distribution register or any other document to",

show that at the relevant time 1000 litres of kerosene was delivered to the said fair price shop and out of that quantity of kerosene ration card holders,

were distributed total 538 litres of kerosene. Therefore, it is also not established that total 1000 litres of kerosene was given to the said fair price shop",

and out of that quantity of kerosene total 538 litres of kerosene was distributed to the ration card holders and total 442 litres of kerosene was found to,

be short.,

11. From perusal of the judgment of the Trial Court, it seems that the Trial Court has convicted Appellant Manoj Sharma only on the ground that from",

him the prosecution had seized a delivery memo vide seizure memo (Ex.P16). One of the witnesses of the said seizure memo, namely, Pradeep",

Tripathi (PW9) has not supported the case of the prosecution and turned hostile. Other witness of the said seizure memo, Mohd. Kayum Khan (PW8)",

has only stated that one delivery memo was seized from Appellant Manoj Sharma, but according to this witness, in the said seizure memo (Ex.P16), he",

had put his signature at Village Chatirama. But, according to the case of the prosecution, the said delivery memo was seized at the lampus office",

situated at Village Namnakala. Therefore, seizure of the delivery memo from Appellant Manoj Sharma is doubtful. Even if for the sake of argument it",

is considered that the delivery memo was seized from Appellant Manoj Sharma, the said delivery memo is not available on record. It has already been",

discussed above that against Appellant Shankar Ram (dead), who was a Salesman of the fair price shop in question, the prosecution has failed to",

prove that the alleged irregularities were committed by him and, therefore, no liability can be fastened on Appellant Manoj Sharma, who was the Lead",

Manager of the said fair price shop. For the foregoing reasons, I find that the prosecution has failed to prove its case beyond reasonable doubt.",

12. Consequently, the appeal is allowed. The impugned judgment of conviction and sentence is set aside. Appellant Manoj Sharma is acquitted of the",

charges framed against him.,

13. Record of the Court below be sent back along with a copy of this judgment forthwith for information and necessary compliance.,