

(1986) 08 P&H CK 0009

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Appeal No. 70-SB of 1985

Suresh Kumar

APPELLANT

Vs

The State of Haryana

RESPONDENT

Date of Decision: Aug. 19, 1986

Acts Referred:

- Essential Commodities Act, 1955 - Section 3

Citation: (1987) 1 RCR(Criminal) 124

Hon'ble Judges: S.S. Dewan, J

Bench: Single Bench

Advocate: J.V. Yadav for Mr. S.D. Bansal, for the Appellant; K.S. Malik, for the Respondent

Final Decision: Allowed

Judgement

S.S. Dewan, J.

On May 5, 1984, the Haryana Government issued an order styled "Haryana Milk Products Control Order, 1984 (for short, the Order) u/s 3 of the Essential Commodities Act, 1955 (hereinafter referred to as the Act). Clause 3 of this Order prohibited the manufacture, sale, service or supply of milk products. Sub-clause (a) of Clause 3 prohibited the use of milk of any kind for the manufacture of cream, skimmed milk, Khoa Rubree, Paneer or any kind of sweet in the preparation of which milk or any products except Ghee is an ingredient. The order came into force on May 5, 1984 and ceased to operate on 31st July, 1984. However, while the order was still in force, Shadi Ram Assistant Sub Inspector along with other official and private witnesses conducted raid on the shop of Suresh Kumar accused who run a shop at Panipat on 1st July, 1984. It is alleged that on seeing the police party, the accused run away after spilling the milk on the ground, yet the cream extracting machine and about 2 Kgs, of cream were recovered from his shop, Hence the accused was prosecuted by the Presiding Officer, Special Court, Karnal, constituted under the Act for contravention of the Order and was accordingly convicted and sentenced to three months rigorous imprisonment and a fine of Rs. 500/- on January

18, 1985.

2. The main contention raised on behalf of the accused before the trial Court was that the Order having expired by efflux of time and there being no saving clause to keep alive its operation, his prosecution after the expiry of the order was bad in law. The trial Court rejected this contention vide the impugned order, hence this appeal

3 Sub-clause (3) of Clause 1 of the Order is sought to be pressed into service by the prosecution in this respect. It reads as under:

It shall come into force from 5th day of May, 1984 and shall cease to be operative at the expiry of the 31st day of July, 1984, except as regards things done or omitted to be done before such cession of operation.

4. On its plain language Sub-clause (3) of Clause 1 provides for automatic expiration of the order by efflux of time. Thus it ceases to exist on July 31, 1984.

5. The short question for consideration in this appeal is whether the prosecution launched against the accused-Appellant after the expiration of the order was valid or legal. The following passage appearing at page 409 in "Craies on Statute Law" 7th Edition enunciates the general principle:

Expiration: As a general rule, and unless it contains some special provision to the contrary, after a temporary Act has expired, no proceedings can be taken upon it, and it ceases to have any further effect. Therefore, offences committed against temporary Acts must be prosecuted and punished before the Act expires, and as soon as the Act expires any proceedings which are being taken against a person will ipso facto terminated."

6. This principle was affirmed by the Supreme Court in [The State of Uttar Pradesh Vs. Seth Jagamander Das and Others](#), . It was held:

When a Statute is repealed or comes to an automatic end by efflux of time, no prosecution for acts done during the continuance of the repealed or expired Act can be commenced after the date of its repeal or expiry because that would amount to the enforcement of a repealed or a dead Act. In cases of repeal of statutes this rule stands modified by Section 6 of the General Clauses Act. An expiring Act, however, is not governed by the rule enunciated in that section.

7. Similar view was taken in M/s Rawala Corporation (P) Ltd. and Anr. v. The Director of Enforcement, New Delhi AIR 1970 S.C. 494.

8. These authorities to my mind squarely apply to the facts of the present case. There is no provision in the order permitting operation of the Order itself to continue as regards things done or omitted to be done when the same was in force. Hence Sub-clause (3) of Clause 1 does not permit prosecution in respect of such offence after the expiry of the Order itself and the said clause does not in terms save the operation of the Order as regards things done or omitted to be done before its

cessor. Hence, the prosecution of the Appellant subsequent to the expiry of the Order must be held to be illegal and invalid.

9. In the result, this appeal succeeds and the Appellant is acquitted of the charge.