

## Rattan Lal Vs State of Haryana

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** Oct. 28, 1992

**Citation:** (1993) 1 AICLR 606 : (1993) 1 RCR(Criminal) 670

**Hon'ble Judges:** J.B.Garg, J

**Advocate:** P.K. Mutneja, Sivir Dewan, Advocates for appearing Parties

### Judgement

J.B. Garg, J.

1. Rattan Lal son of Ram Sarup has been convicted under Section 7 of the Essential Commodities Act by the Presiding Officer of the Special

Court, Karnal on 26.4.1986 and sentenced to undergo R.I. for 3 months and to pay a fine of Rs. 2,000/. In default of payment of fine he was

required to undergo R.I. for a period of 2 months. Aggrieved against it, the present appeal has been attempted.

2. Briefly, the story of the prosecution is that on 22.11.1985, Shri Ramesh Chander, Cane Development Officer, Panipat, along with the witnesses,

went to the Power Crusher of the accused, installed in the area of village Garhi Behsak, and found him manufacturing Gur. The accused did not

possess nor could show any licence. A ruqa Ex. PA was sent by the complainant to Police Station, Sadar, Panipat, where an FIR was recorded

on 5.12.1985. Shri Niranjana Singh ASI reached the premises of the accused and took into possession the power crusher together with its

components. About 20 quintals of sugarcane, weights and measures, etc. were also taken into possession. The sign board of M/s. Kashyap

Khandsari Udyog was also taken into possession together with the cash book vide memo Ex. PC/2. It was in violation of Section 4 of the Essential

Commodities Act, 1955.

3. The learned Counsel for the appellant has argued that any part of the Gur manufactured, was not taken into possession nor brought to the Police

Station. The statement of PW1 Shri S.P. Verma, Assistant Cane Development Officer, Panipat, recorded in the trial Court, has been referred to

and he has specifically said that Rattan Lal was manufacturing Gur, at his Power Crusher known as K/s. Kashyap Khandsari Udgog. He has also

deposed that the Manager of the Bank was also present with them and the accused had obtained loan for setting up the aforesaid unit. This has

been further corroborated by PW3 Shri Niranjana Singh ASI, who has deposed that Kohlu of the accused was taken into possession together with

sugarcane, weights and measures. The Karahas and the Khoi were also lying there but not taken into possession. The occurrence in question of

manufacturing Gur without a licence took place and was found on 2.12.1985 and it was in violation of the Notification issued on 29.11.1985. The

date of Notification is not disputed here as well.

4. The complainant visited the place of occurrence on 22.11.1985 and 26.11.1985 as well though there was no notification by that time. It is an

admitted fact that the notification in question prohibiting the manufacture of Gur by means of a power crusher was issued on 29.11.1985 and the

commission of its breach came within the purview of Section 7 of the Essential Commodities Act on 2.12.1985 when the accused was

apprehended as seen above.

5. Eicher Engine, Kohlu, the weights and measures, sugarcane etc. were also taken into possession by the police and subsequently released on the

application which the appellant moved in the trial Court on 4.2.1986. There was no reason for PW1 Shri S.P. Verma, Assistant Cane

Development Officer and PW3 Shri Niranjana Singh ASI to depose falsely against the accused.

6. The evidence of DW1 Alisher cannot be said to be helpful to the accused because it was never the case of the prosecution that by the time Alisher

reached along with PW3 Shri Niranjana Singh ASI, the Gur was behind actual manufacture.

7. The learned Counsel for the appellant has referred to Tek Ram v. The State of Haryana, C.A. No. 263SB of 1986, decided on 5.12.1989. In

that case, the distinguishing feature was that the letter by the Cane Commissioner was received on 29.11.1985 and the accused was convicted in

respect of the violation made by him on 27.11.1985 and thus the aforesaid case cannot be said to be helpful to the present appellant.

8. In view of the evidence and reasons discussed above, there is no good ground to disturb the finding of guilt. As regards quantum of sentence,

the learned Counsel was stressed that the appellant is a first offender and a lenient view may be taken. The learned Counsel has referred to T.

Susila Patra and another v. State, III 1987(1) Crimes 654, where, in a case under Essential Commodities Act, 1955, there was an omission of

displaying the stocks and the benefit of Section 360 of the Code of Criminal Procedure was granted to a woman convict. In Bhagaban Sahu v.

State, 1988 Cri. L.J. NOC 76, an accused who belonged to a remote village was given benefit of Section 360 of the Code of Criminal Procedure

for not displaying the opening stock of an essential commodity. In *Joginder Singh v. The State of Punjab*, 1980 Cri. L.J. 1218, a Full Bench of this

Court held that the prescription of the minimum sentence in the Punjab Excise Act, 1914, does not bar the application of Section 350 of the Code

of Criminal Procedure. In the case now in hand the occurrence took place about 7 years ago. The appellant has also undergone a part of the

substantive sentence and in the circumstances, it is held that the period of substantive sentence undergone is considered sufficient. As regards the

amount of fine there shall be no reduction and with this modification, the present appeal is dismissed.