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(2003) 07 P&H CK 0171

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Appeal No. 356-SB of 1990

M/s. Maya Ram and Sons	APPELLANT
Vs	
State of Haryana	RESPONDENT

Date of Decision: July 16, 2003

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 313
- Essential Commodities Act, 1955 - Section 7

Citation: (2003) 6 CriminalCC 544 : (2003) 4 RCR(Criminal) 114

Hon'ble Judges: Virender Singh, J

Bench: Single Bench

Advocate: R.K Jain, for the Appellant; Sanjiv Sheokand, AAG Haryana, for the Respondent

Final Decision: Dismissed

Judgement

Virender Singh, J.

Suresh Kumar Son of Maya Ram who is the proprietor of M/ s Maya Ram & Sons stands convicted by learned Presiding Officer, Special Court, Hissar u/s 7 of Essential Commodities Act, 1955 (for short the Act) and has been sentenced to undergo RI for a period of nine months and to pay a fine of Rs.2000/ -, in default of payment of fine to further undergo RI for three months. The firm was also sentenced to pay a fine of Rs.2000/-. (sic) Supply (PW1) alongwith Mannu Ram Sharma, Assistant Food & Civil Supply Officer (PW5) went to the shop of the appellant located in Anaj Mandi, Hissar. At that time brother of the appellant was present at the shop and the appellant was not there. The case of the prosecution further is that the brother of the appellant had not produced any licence required under the Haryana Food Articles (Licensing and Price Control) Order, 1985 and as such had committed as offence punishable u/s 7 of the Act. Intimation Ex. PA was sent to the concerned police station on the basis of which formal FIR Ex.PA/1 was recorded by Ishwar Singh Inspector/SHO, Police Station City Hissar (PW7). Other formalities were also done in the present case

and consequently the appellant was challaned. He was charged u/s 7 of the Act.

2. The prosecution in support of its case had examined Singh Ram Dahiya, Inspector, Food & Civil Supply PW1, Ram Niwas, Secretary, Municipal, Committee, Hissar PW2, ASI Devinder Kumar PW3, Bhagwan Dass PW4, Mannu Ram Sharma AFSO PW5, Kishore Kumar PW6 and Ishwar Singh, District Inspector PW7.

3. The defence as emerges from the statement of the appellant recorded u/s 313 Cr. P.C. is as under:-

I was small shop-keeper and had obtained a licence of market committee. Bhagwan Dass and Kishore Lal approached me that they shall get their sales and purchase regularised by showing those articles to have been purchased from me. Since I had the licence of market committee and I was a very small shop-keeper, I agreed for the same. I did not actually do any transaction. I was also not aware of the requirement of licence under found articles. Bhagwan Dass etc. had withheld their records. After this case, I remained in custody for about 21 days and have left my business and now 1 am working only as a part-time accountant at my house. I did not have any malafide intention. I did not earn any profit out of these transactions shown by the PWs. I leave myself to the mercy of the Court.

4. On appreciation of the entire evidence, the learned Presiding Officer, Special Court convicted and sentenced the appellant as stated above. Hence, this appeal.

5. I have heard Mr. R.K. Jain, learned counsel for the appellant and Mr. Sanjiv Sheokand, learned Assistant Advocate General, representing the State of Haryana. With their assistance I have also gone through the entire records of the case.

6. At the very outset, Mr. Jain has submitted that he does not assail the impugned judgment of conviction on merits and instead prayed for reduction in the sentence. In support of his arguments, he further contends that the present case relates to the year 1989 and by now the appellant has faced rigor of protracted trial of about 14 years. Besides this the appellant is not a previous convict. He then contends that the appellant at the time of framing of charge was of the age of 34 years. He is now of the age of 48 years having three children. On these grounds he prays for leniency towards the quantum of sentence. Mr. Jain in support of his arguments on the point of quantum of sentence has relied upon two judgments of this Court rendered in Sant Lal v. State of Haryana, 1999 (2) All India CRILR 652 and Niranjan & Anr. v. State of Haryana, 1992 (3) Cri 1069.

7. On the other hand Mr. Sheokand vehemently contends that the appellant does not deserve any leniency and the sentence as awarded by the trial court deserves to be maintained.

8. So far as the merits of the case is concerned, although Mr. Jain has not assailed the conviction of the appellant on merits, yet I have scanned the entire evidence minutely and do not find any infirmity in the impugned judgment. Conviction of the

appellant is, thus, maintained.

8. On quantum of sentence I find that there is force in the argument of the learned counsel for the appellant. Admittedly, the present case relates to the year 1989. The appellant is not a previous convict. He has already suffered the agony of protracted trial of about 14 years. The judgments rendered in Sant Lal''s case and Niranjan & another''s case (supra) cited by the learned counsel for the appellant are applicable to the facts and circumstances of the present case as well.

9. After taking into consideration all the facts and circumstances of the present case, 1 am of the view that the ends of justice would be adequately met if the appellant is ordered to be released on probation instead of awarding substantive sentence. Accordingly, upholding the conviction of the appellant for the charge framed against him it is directed that the appellant Suresh Kumar son of Maya Ram shall be released on probation of good conduct on his furnishing personal bond in the sum of Rs.20000/-with one surety in the like amount to keep peace and be of good behaviour for a period of one year and to receive the sentence as and when called upon to do so during the said period of one year.

10. It is however, made clear that releasing of the appellant on probation would be without the supervision of Probation Officer. The requisite bonds shall be furnished before the trial court within one month after the receipt of certified copy of the order, failing which the appellant shall undergo the sentence imposed upon him by the learned trial court. The fine already deposited would now be considered as compensation to the State.

11. Resultantly, except in the modification on the point of sentence as indicated above, the present appeal stands dismissed on merits.