

(1997) 02 AHC CK 0113

Allahabad High Court

Case No: Criminal Revision No. 2647 of 1983

Mathura Prasad

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision: Feb. 20, 1997

Acts Referred:

- Essential Commodities Act, 1955 - Section 3, 7

Citation: (1997) 21 ACR 317

Hon'ble Judges: C.A. Rahim, J

Bench: Single Bench

Judgement

C.A. Rahim, J.

This revision has been preferred against the judgment and order of the learned Special Judge, Ghazipur dated 19.12.1983 passed in Criminal Appeal No. 240 of 1983 dismissing the appeal preferred by the accused-Appellant against the conviction and sentence passed by the learned Special Judicial Magistrate, Ghazipur dated 3.9.1983 in Criminal Case No. 742 of 1981, u/s 3/7 of the Essential Commodities Act and sentenced him to suffer R.I. for one year and to pay fine of Rs. 1,000.

2. Sri R.C. Yadav appearing for the revisionist has submitted that the Block Development Officer has got no power to prosecute the case under the provisions of Essential Commodities Act. Sri Jitendra Singh, A.G.A. appearing for the State has referred notification dated 24.8.1973 published in U.P. Gazette, Extraordinary, on 26.8.1973, wherefrom it appears that in exercise of the powers u/s 19 of the Fertilizer (Control) Order, 1957, the Governor was pleased to appoint all Block Development Officers amongst others, to act as Inspector of fertilizer for the purpose of the said order and they shall exercise all powers of Inspectors. In view of the said notification the Block Development Officer has been authorised to inspect and prosecute under the said order for which an offence u/s 3/7 of the Essential Commodities Act was committed.

3. Learned Counsel has then submitted that since the revision is pending for more than 12 years and since the accused-applicant undergone sentence for about a month some leniency with regard to the imposition of sentence be extended to the applicant.

4. Having considered the facts and circumstances and in view of the fact that the accused-applicant has undergone sentence for a period of about one month it would meet the ends of justice if the substantive sentence is confined to that period and a fine of Rs. 1,000 is imposed.

5. Accordingly, the revision is allowed in part. Conviction u/s 3/7 of the Essential Commodities Act is hereby maintained. Imprisonment of R.I. for one year is reduced to the period already undergone and is directed to pay a fine of Rs. 1,000 within one month from this date, in default to suffer R.I. for one month.

6. With the above observations, the revision is disposed of.