

(2007) 04 AHC CK 0302

Allahabad High Court

Case No: Criminal M.A. No. 1923 of 2007

Mujibur Rehman

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision: April 6, 2007

Acts Referred:

- Essential Commodities Act, 1955 - Section 3, 7

Citation: (2007) 2 ACR 2166

Hon'ble Judges: Amar Saran, J

Bench: Single Bench

Advocate: S. Irfan Ali, for the Appellant; A.G.A., for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Amar Saran, J.

This application has been filed challenging an order dated 3.11.2006 framing charge against the applicant u/s 3/7 of the Essential Commodities Act read with certain control orders. This application has come up before me, as earlier Application No. 1927A of 2004 had been disposed of by me vide order dated 29.7.2004 and thereafter it was directed to be placed before me by orders of Hon'ble the Chief Justice dated 20.2.2007. I had dismissed the application for non-prosecution and on the application for recall of the order I recalled my ex parte order dated 2.3.2007 today.

2. It is argued by the learned Counsel for the applicant that in my earlier order dated 29.7.2004 I had observed that the applicant can claim discharge when the charge was being framed, but Special Judge had not considered the objections raised by the applicant and did not give him fresh opportunity and without hearing the applicant afresh, the charge has been framed by an order dated 3.11.2006 (Annexure-1 to the application), which is assailed before me.

3. The allegations in the charge were that the applicant had failed to produce the documents concerning the receipt of scheduled commodities viz. sugar and kerosene oil inspite of demand by the Senior Supply Inspector and has thus violated the provisions of U.P. Sugar and Gur Dealers Licensing Order, 1962, the U.P. Kerosene Control Order, 1962 and the U.P. Food grains and other Essential Commodities (Distribution) Orders, 1977, which was punishable u/s 3/7 of the Essential Commodities Act.

4. Learned Counsel for the applicant sought to argue that there is no evidence to prove that the notices were served on him to produce the said records. The said evidence is not required to be considered at this stage. Learned Counsel for the applicant has also drawn by attention to some receipt of the A.D.M. (Food and Civil Supplies) dated 17.7.1986, where it is shown that some papers were presented before the concerned Officer. It is not possible to decide at this stage whether the said papers are, in fact, the papers required and, in any case this is a matter for defence, which the applicant can raise at the appropriate stage. In the case of State of Orissa v. Debendra Nath Padhi, 2005 (1) SCC 566: 2005 (1) ACR 71 (SC), it has been laid down by the Apex Court that defence material cannot be looked into at the stage of framing of charges.

5. There is no force in this application. It is dismissed. As this is an old matter, the trial court is directed to proceed with the trial expeditiously.