
(1991) 02 MP CK 0048

Madhya Pradesh High Court

Case No: Criminal Revision No. 659 of 1984

Jaidayal and Another

APPELLANT

Vs

State of Madhya
Pradesh

RESPONDENT

Date of Decision: Feb. 6, 1991

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 454
- Forest Act, 1927 - Section 27
- Madhya Pradesh Van Upaj (Vyapar Viniyaman) Adhiniyam, 1969 - Section 1(3), 2

Citation: (1991) CriLJ 3272

Hon'ble Judges: S.K. Chawla, J

Bench: Single Bench

Advocate: N.P. Dubey, for the Appellant; A.S. Jha, Government Advocate, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

S.K. Chawla, J.

By this revision the applicants challenge the appellate order passed u/s 454, Cr. P.C. for disposal of property.

2. The applicants were alleged to have illegally purchased on 17-6-1982 sal seeds weighing 78 quintals, 10 Kgs. in 94 bags and also transporting them without permit in village Sargarh, P.S. Jaitpur, District Shahdol. After trial, the applicants were acquitted of the offence u/s 27(g) of the Forest Act, 1927. The learned Magistrate directed the return of Sal Seeds to the applicants. The Forest Department took appeal against order about disposal of property to Sessions Judge, Shahdol. In appeal the learned Sessions Judge directed confiscation of Sal Seeds in favour of the State Government. Aggrieved by that order, the present revision has been filed.

3. A perusal of the appellate order of the learned Sessions Judge will show that it was based on the premise that Sal Seeds are "specified forest produce" by virtue of notification issued under the provisions of M.P. Van Upaj (Vyapar Viniyaman) Adhiniyam, 1969. Holding that the provisions of the said Adhiniyam were applicable, the learned Sessions Judge held that purchase of Sal Seeds by the applicants or even transportation thereof without permit was illegal. Accordingly, he directed confiscation of the seized Sal Seeds.

4. It will be seen that the provisions of M.P. Van Upaj (Vyapar Viniyaman) Adhiniyam, 1969 are applicable only with respect to such "forest produce" which are notified as "specified forest produce" by notification under Sub-section (3) of Section 1 of the said Adhiniyam. Sal Seeds are no doubt "forest produce" within the meaning of Clause (d) of Section 2 of the said Adhiniyam but no notification Under Sub-section (3) of Section 1 of the said Adhiniyam was shown mentioning Sal Seeds as specified forest produce for Shahdol district, in which the village in question fell, on the material date. It was conceded by learned Govt. Advocate that there was no such notification issued even till this date. As such, it must be held that Sal Seeds were not "specified forest produce" within the meaning of the said Adhiniyam. The provisions of the said Adhiniyam were, therefore, not attracted. The appellate order of the learned Sessions Judge was based on the wrong premise about the applicability of the provisions of the said Adhiniyam. The order of the learned Sessions Judge is, therefore, unsustainable. There was evidence in the case to show that the seized Sal Seeds had been grown by applicant No. 2 Murlidhar on his field. As such the order for return of the seized seeds passed by the learned Magistrate was correct.

5. The revision is allowed. The order of Sessions Judge, Shahdol dt. 5-7-1984 directing confiscation of Sal Seeds is set aside and that of the Magistrate directing return of the Sal Seeds to the applicants is restored.