
(2011) 04 DEL CK 0256

Delhi High Court

Case No: Criminal Rev. P. 154 of 2011 and Criminal M.A. 4042-4043-2011

State

APPELLANT

Vs

Geeta Goel

RESPONDENT

Date of Decision: April 4, 2011

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 397, 401, 482
- Essential Commodities Act, 1955 - Section 3, 7

Citation: (2011) 2 JCC 1345

Hon'ble Judges: Hima Kohli, J

Bench: Single Bench

Advocate: Navin Sharma, app, for the Appellant; Nemo, for the Respondent

Final Decision: Dismissed

Judgement

Hima Kohli, J.

The present petition is filed by the Petitioner-State under Sections 397/401 read with Section 482 of the Cr.PC praying inter alia for setting aside order dated 27.9.2010 passed by the learned ASJ allowing the revision petition filed by the Respondent herein, against an order dated 30.3.2010 passed by learned ACMM, and consequently discharging her u/s 7 of the Essential Commodities Act, 1955 (in short "the EC Act") in proceedings arising from FIR No. 157/2008.

2. The brief facts of this case are that the Respondent is the proprietor of a restaurant, by the name of M/s Apna Rasoi and the co-accused, one Mr. Ajay was the manager of the said restaurant, in charge of the day to day functioning of the restaurant. As per the case of the prosecution, on 22.02.2008 at about 3.40 pm, an inspection of the restaurant was conducted by the Inspector, Food & Supply Department, where it was found that LPG domestic cylinders were being used in an unauthorized manner, in contravention of Section 3 of the EC Act. Based on this the present FIR was registered and investigation was conducted. As per the prosecution,

the Petitioner made a disclosure statement on 25.04.2008, admitting that she was aware that LPG cylinders were being used unauthorized in the restaurant owned by her to save money. After investigation was completed, charge sheet was filed against the Petitioner and the co-accused. By the order dated 30.3.2010 passed by learned ACMM, charges were framed against the Petitioner u/s 7 of the EC Act.

3. Aggrieved by the aforesaid order dated 30.3.2010 framing charge, a revision petition was preferred by the Respondent before the Court of the learned ASJ, which was duly allowed. By the impugned order dated 27.09.2010, the learned ASJ discharged the Petitioner on the ground that there was no evidence on the record to show that the LPG cylinders were being used at the restaurant with the connivance of the Petitioner. Aggrieved by the aforesaid order of discharge, the State has preferred the present revision petition seeking quashing of the same.

4. The learned APP for the State contends that the learned ASJ failed to appreciate the fact that the Respondent is the license holder in respect of the restaurant and it is quite improbable that she would be unaware of the functioning of her restaurant. He also states that no document has been placed on record to show that only the manager was in charge of the day to day affairs of the restaurant and the Petitioner had no role to play. He argues that it is settled law that at the stage of framing of charge only a prima facie view has to be taken, and the evidence cannot be gone into in detail. He further argues that it was erroneous on the part of the learned ASJ to have considered the disclosure statements of the Petitioner and the co-accused at the stage of framing of charge. Relying on the abovementioned submissions, learned APP for the State prays for setting aside the impugned order and seeks framing of charge against the Petitioner u/s 7 of the EC Act.

5. There is no quarrel with the proposition of law pointed out by the learned APP that at the stage of framing of charge, a roving inquiry cannot be conducted in respect of the evidence on record. At the same time, it is settled law that where on a prima facie view of the charge sheet, it is found that there is no evidence against the accused to support a conviction, the said accused should not be put through the ordeal of a trial and should be discharged. In the present case, the learned ASJ has arrived at the conclusion that there is no evidence against the Respondent other than her own disclosure statement dated 25.04.2008. It is of significance that before the learned ASJ, the Respondent had contended that she had been forced to sign blank papers, on which subsequently her disclosure statement was written. The court below also noted the fact that in the two disclosure statements made by the co-accused on 11.03.2008 and on 22.02.2008, he had not leveled any allegations against the Respondent. As a result, on a prima facie view of the evidence, the learned ASJ discharged the Respondent. This Court concurs with the aforesaid findings of the learned ASJ. Having regard to the fact that the only evidence available against the Respondent is her own disclosure statement, which has come into doubt and keeping in mind the fact that there is no allegation leveled against

her in the statements of the co-accused, on a prima facie view of the case, no interference is required in the impugned order. Further, the scope of revision is very limited and only where an illegality, arbitrariness or perversity is shown on the face of the record, would this Court exercise its provisional jurisdiction. In the present case, no such illegality or arbitrariness has been shown.

6. The petition is accordingly dismissed along with the pending applications, as being devoid of merits.