



2026:AHC:91164

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2711 of 1986

Khalil Ahmad

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	M.N. Agrawal
Counsel for Respondent(s)	:	A.G.A.

Court No. - 93

HON'BLE MRS. VANI RANJAN AGRAWAL, J.

1. This appeal has been filed against the judgment and order dated 20.09.1986 passed by Special Judge, Mathura, in Criminal Case No.2 of 1984, convicting the appellant for contravening clause 3(1) of U.P. High Speed Diesel and Light Diesel Oil (Maintenance of Supply and Distribution) Order 1981 punishable under Section 3/7 of E.C. Act, and sentencing him to undergo six months rigorous imprisonment.
2. Heard Sri Sanjay Singh, learned counsel for the appellant and Sri Rahul Asthana, learned A.G.A. for the State.
3. The prosecution case, in brief, is that on 22.08.1984, Sub-Inspector Mr. Karam Singh, received information through Mukhbir at about 06.15 p.m. in village Pipramau that one man has stocked a large quantity of diesel of high speed and light speed diesel oil for the purpose of illegal sale. Acting upon the said information, the informant Sub-Inspector Karam Singh along with the police team and independent witness, reached on the spot and found one person standing near a drum. On seeing the police party, he attempted to flee but was apprehended. Upon interrogation, the accused allegedly, disclosed that he has in his possession about 100 liters of diesel. He produced a key and opened a room from where two drums of furnace oil, 100 liters of diesel and five empty drums along with measuring instruments were recovered. The said items were seized. Recovery memo was prepared on the spot and brought to police station.
4. FIR was lodged on basis of recovery memo and G.D. entries were made. Sanction for prosecution under Section 3/7 E.C. Act was obtained from District Magistrate, Mathura. After investigation of the case, charge-sheet has been submitted.

5. Charges were framed under Section 3/7 E.C. Act against the accused. He pleaded not guilty and claimed trial.
6. The prosecution in order to prove its case has examined as many as four witnesses.
7. P.W.-1 Om Prakash is a public witness. He corroborated the prosecution version regarding recovery of diesel oil from the possession of the accused and proved his signature on recovery memo Ext. Ka-1.
8. P.W.-2 Constable Baboo Lal and P.W.-3 Sub-Inspector Karam Singh also corroborated the recovery of illegal diesel and furnace oil from the possession of the accused and his arrest on the spot.
9. The Investigating Officer P.W.-4 has proved site plan Ext. Ka-2, charge-sheet Ext. Ka-3, FIR Ext. Ka-5, carbon copy of G.D. Ext. Ka-6 and sanction for prosecution Ext. Ka-7 in his deposition.
10. The trial court after appreciation of the oral and documentary evidence on record, has returned a finding of guilt and convicted the accused for contravening clause 3(1) of U.P. High Speed Diesel and Light Diesel Oil (Maintenance of Supply and Distribution) Order 1981 and convicted him for offence under Section 3/7 E.C. Act and sentenced him to undergo six months rigorous imprisonment.
11. Aggrieved with the judgment and order of conviction and sentence, the present appeal has been filed.

Submissions :-

12. It is submitted that the conviction of the appellant is unsustainable in law and facts. It is contended that the alleged place of recovery is not the house or exclusive possession of the accused. There is no evidence to establish conscious or exclusive possession of the appellant.
13. It is further alleged that :-
 - (i) No evidence led to show that the alleged oil was sold or meant for sale.
 - (ii) No customer or purchaser has been examined. The source from where the alleged oil and diesel were procured has not been investigated.
 - (iii) The seized substance was never sent for chemical examination to forensic laboratory and no report exists to establish that the recovered substance was, in fact, high speed diesel or any controlled petroleum product.
 - (iv) The case property was not produced before the Court during trial.

There is an absence of reliable and cogent evidence to connect the accused appellant with the alleged offence. The appellant has no criminal antecedents.

Point for Determination

14. The primary question for consideration is whether the prosecution has been able to prove beyond doubt that :-

- (i) The recovered substance was a controlled commodity (High Speed Diesel Oil or similar petroleum product).
- (ii) The same was in conscious and exclusive possession of the appellant for unlawful storage or sale in violation of Control Order.

Discussion and Findings

15. Clause 3 (1) of the Uttar Pradesh High Speed Diesel Oil and Light Diesel Oil (Maintenance of Supply and Distribution) Order, 1981 prohibits any person from engaging in the business as a dealer, retailer or wholesaler of these products without a valid license, adhering strictly to its terms and conditions.

16. The clause mandates that under this order no individual or entity shall sell, store for sale or purchase high speed diesel or light speed diesel oil without a license granted by the appropriate authority. The order was enacted to maintain and regulate the supply and distribution of diesel within Uttar Pradesh with breaches allowing for the seizure of the stock.

17. After perusal of the record, oral and documentary evidence, this Court finds as follows :-

- (i) Firstly, the prosecution has failed to establish that the recovered substance was, in fact, high speed diesel oil or any other notified essential commodity. Admittedly, no sample of the seized material was sent to forensic laboratory for chemical analysis. In absence of any scientific report, it cannot be conclusively held that the recovered substance was a controlled petroleum product.
- (ii) Secondly, the place of the alleged recovery has not been proved to be in exclusive possession of the appellant. Mere presence of the appellant on the spot does not establish conscious possession, particularly when the place is not shown to be owned or exclusively controlled by him.
- (iii) Thirdly, there is no evidence to show that the alleged commodity was being sold or intended for sale. No customer was examined and no

transaction has been proved.

(iv) Fourthly, the investigation regarding the source of procurement of the alleged recovered substance, this creates a serious gap in the prosecution story.

(v) Fifthly, the non production of the seized articles before the trial court further weakens the prosecution case and casts doubt on the genuineness of the alleged recovery.

18. It is a settled principle of criminal jurisprudence that the prosecution must prove its case beyond reasonable doubt. In the present case, the evidence produced on record suffers from material inconsistencies and omissions and the benefit of doubt must necessarily go to the accused.

19. In view of the aforesaid facts and circumstances, this Court is of the considered opinion that prosecution has failed to establish the guilt of the appellant beyond reasonable doubt. The conviction recorded by the learned trial court is not sustainable in law. The appeal deserves to be allowed.

21. Accordingly, the appeal is allowed. The order of conviction and sentence dated 20.09.2026 recorded by the trial court is hereby set aside.

22. The appellant is acquitted for all the charges under Section 3/7 of E.C. Act.

23. The appellant is in jail. He shall be released forthwith, if not required in any other case.

24. A copy of this order be transmitted to learned trial court, Agra as well as Jail Superintendent, Agra for immediate compliance.

(Mrs. Vani Ranjan Agrawal,J.)

April 17, 2026

P. Pandey