

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1336 OF 2019  
(@ SLP (CRL.) 8088 (DIARY NO. 10339 OF 2019))

RABINDRA NATH BISWAS .. Appellant(s)

Versus

THE STATE OF WEST BENGAL .. Respondent(s)

O R D E R

Delay condoned.

Leave granted.

The appellant was convicted for offences punishable under Section 7(1)(a)(ii) of the Essential Commodities Act, 1955 for violation of the provisions of the West Bengal Motor Spirit and High Speed Diesel Oil (Licensing, Control and Maintenance of Supplies) Order, 1980. He was sentenced to suffer rigorous imprisonment for three months and pay a fine of Rs.500/-. He filed an appeal against the said conviction and sentence. When the matter was listed on 17<sup>th</sup> May, 2016 before the High Court, none appeared for the appellant. Ms. Trina Mitra, learned Advocate was requested to appear for the appellant and assist the Court. The appeal was heard on the same day and dismissed.

Mr. Rauf Rahim, learned counsel appearing for the appellant relied upon a judgment of this Court in *Mohd. Sukur Ali versus State of Assam* [2011 (4) SCC 729] and submitted that the learned Amicus Curiae who was appointed by the High Court ought to have been given an opportunity to peruse the record and make her submissions.

We are of the considered opinion that the appellant is entitled to a fair hearing. The learned Amicus Curiae appointed by the High Court could not have assisted the Court effectively as the matter was heard on the same day she was appointed as an Amicus-Curiae.

We set aside the judgment of the High Court and remand the matter back to the High Court for fresh consideration.

Interim protection granted by the High Court during the pendency of the appeal will stand revived.

The appeal is allowed.

.....J.  
( L. NAGESWARA RAO )

.....J.  
( HEMANT GUPTA )

New Delhi,  
Dated: September 02, 2019.

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 10339/2019  
(Arising out of impugned final judgment and order dated  
17-05-2016 in CRA No. 391/1984 passed by the High Court At  
Calcutta)

RABINDRA NATH BISWAS

Petitioner(s)

VERSUS

THE STATE OF WEST BENGAL

Respondent(s)

( IA No. 52189/2019 - CONDONATION OF DELAY IN FILING  
IA No. 52193/2019 - EXEMPTION FROM FILING C/C OF THE  
IMPUGNED JUDGMENT  
IA No. 52194/2019 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES)

Date : 02-09-2019 This petition was called on for hearing  
today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO  
HON'BLE MR. JUSTICE HEMANT GUPTA

For Petitioner(s) Mr. Rauf Rahim, AOR  
Ms. Manisha Pandey, Adv.  
Mr. Ali Asghar Rahim, Adv.  
Mr. S. Halder, Adv.

For Respondent(s) Mr. Suhaan Mukerjee, Adv.  
Ms. Astha Sharma, Adv.  
Ms. Kajal Dalal, Adv.  
Mr. Amit Verma, Adv.  
Mr. Abhishek Manchanda, Adv.  
Mr. Prastut Dalvi, Adv.  
Mr. Naveen Kumar, Adv.  
M/s. PLR Chambers And Co., AOR

UPON hearing the counsel the Court made the following  
O R D E R

Delay condoned.

Leave granted.

The appeal is allowed in terms of the Signed Order.

Pending Application(s) stand disposed of.

(GEETA AHUJA)  
COURT MASTER (SH)

(SUNIL KUMAR RAJVANSHI)  
BRANCH OFFICER