

Criminal Revision No. 1169/2013

31.07.2013

Shri Shailendra Singh, Advocate for the applicant.

Shri Umesh Pandey, Govt. Advocate for the State.

Heard.

Applicant has filed this revision against the order dated 10.5.2013 passed by Additional Sessions Judge, Umaria in Sessions Trial No. 76/2010, framing charge against the applicant under Sections 409, 468 and 471 of the Indian Penal Code and Section 3/7 of the Essential Commodities Act.

According to prosecution, applicant, who happened to be the Manager of 'Adim Jati Seva Sahakari Samiti Maryadit Umaria' (Lead Institution Umaria) obtained the kerosene from Government for supplying the same to the fair price shops for sale to public, but the same was not distributed by him and was misappropriated.

Learned counsel for the applicant submits that the bills were seized by the police during investigation which indicated that the aforesaid kerosene was delivered to fair price shop sellers, therefore, it cannot *prima facie* be presumed that applicant did not supply kerosene to the shops, and further that no consumer made any complaint about non-supply of kerosene.

On perusal of the evidence of prosecution witnesses, who happened to be the fair price shop owners, it is revealed that the applicant though drew the bills, but actually did not supply kerosene to them. They, in their statements recorded under Section 161 of the Code of Criminal Procedure they

stated that their false signatures were made on the bills, whereas no kerosene was supplied to them.

In view of the fact that there is incriminating evidence on record against the applicant, it cannot be held that there is absolutely no evidence against the applicant to make out *prima facie* charge of the offences levelled against him. The questions whether the documents produced by the prosecution were genuine or the witnesses spoke truth can be appreciated only in the trial. In this revisional jurisdiction this Court cannot embark upon inquiry to give conclusive finding about the culpability of the accused. Even if consumers did not make complaint about non-supply of kerosene, at this stage, it does not affect the prosecution case against applicant.

In view of the above, I do not find substance in this revision. Accordingly, this revision is dismissed.

(RAKESH SAKSENA)
JUDGE

AD/