

PETITIONER:
STATE OF KERALA

Vs.

RESPONDENT:
M.T. ANANDAN AND ANR

DATE OF JUDGMENT: 05/01/1998

BENCH:
G.T. NANAVATI, S.S.M. QUADRI

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T

Nanavati, J.

The State has filed this appeal as the High Court of Kerala acquitted the respondents by setting aside their convictions under Sections 5 (2) and 5 (1) (d) of the Prevention of Corruption Act, 1947 and Sections 109 and 120-B of the Indian Penal Code. Alongwith the two respondents, two others were also tried for the said offences in the court of the Special Judge, Trichur, in Criminal Case No. 18/82.

Smt. Bitchu - A.2 was the owner of M/s. Latex India Ltd. and M/s. Excellent Rubber and Allied Industries. But as a matter of fact, both the industries were managed by her husband Abdulla koya A.3.

The prosecution case was that A.2 and A.3 in conspiracy with Anandan - A.1, who was the District Industries officers, and A.4, who was a Technical Supervisor, entered into a conspiracy to obtain for A.2 and A.3 more quantity of Titanium dioxide than what was really required by them for their industries and pursuant to that conspiracy A.1. issued two Essentiality Certificates, Ex. P. 35(a) and P.36(a), entitling M/s. Latex India Ltd. to get 300 kilograms of Titanium Dioxide per month and M/s. Excellent and Rubber and Allied Industries to get 2000 kilograms of Titanium dioxide per Month. In substance, the allegation against them was that this much quantity of titanium dioxide was not required by them and A.1 - Anandan abusing his official position had wrongly issued the two Essentiality Certificates which entitled them to obtain more titanium dioxide which entitled them to obtain more titanium dioxide which could later be sold in the market at a higher price.

The trial court relied upon the evidence of PW 4, who was the Deputy Director (Controls), PW 7 - Narayanan Nambiar and PW 17 - PR Pillai, the commercial Manager and the two documents - P.35 (c) and P.35 (d) and held that A. 1 had issued the said Essentiality Certificates for much larger quantity than that required by A.2 and A.3. As A.2 was not taking any interest in the management of the two concerns and as A.4 had not taken any part in issuing the Essentiality certificates, they were acquitted but A.1 and

A.3 came to be convicted for the offences mentioned above.

The High court on reappreciation of the evidence found that there was nothing to show that titanium dioxide was a scarce commodity or that its distribution and price were controlled. it also came to the conclusion that there is nothing on the record to show that the said two firms did not require that much quantity for their use. The High Court, therefore, allowed the appeal and acquitted both the respondents.

We have gone through the judgments of the trial court and the High Court and also the relevant evidence. We find that the prosecution had not led any evidence to prove that titanium dioxide was a scarce commodity or that its distribution and price were controlled by any statutory provision or an administrative order. We also find that the prosecution had failed to establish that in 1969 when the two certificates were issued, the two factories were either closed or that they did not require the quantity of titanium dioxide for which they had obtained the Essentiality Certificates. In absence of such evidence, it cannot be said that by issuing the Essentiality Certificates, Ex. P. 35(a) and Ex. P. 36(a). A.1 had abused its official position in any manner. The High court was, therefore, justified in acquitting both the respondents.

We, therefore, dismiss these appeals. Bail bonds are ordered to be cancelled.