

Veera Ibrahim, appellant was accused No. 2 in the complaint filed by Assistant Collector of Customs, Preventive Department, Bombay before the Chief Presidency Magistrate for his prosecution along with one Abdul Umrao Rauf, accused No. 1, in respect of offences under ss. 135(a) and 135(b) of the Customs Act, 1962 and s. 5 of the Imports and Exports (Control) Act 1947.

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The trial Magistrate convicted both the accused on all the three charges and sentenced them to two years rigorous imprisonment on each count with a direction that the sentences would run concurrently.

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Against that judgment, two separate appeals were filed by the convicts in the Bombay High Court which acquitted both the accused of the offences under s. 5 of the Imports and Exports (Control) Act, 1947 and under s. 135(b) of the Customs Act, but maintained their conviction on the charge under s. 135(a) of that Act reducing the sentence to one years rigorous imprisonment,

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The High Court, however, granted a certificate under Article 134(1) (c) of the Constitution, on the basis of which, this appeal has been filed.

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The main question with reference to which the certificate was granted by the High Court, was: whether s. 108 of the Customs Act, 1962 is ultra vires the provisions of cl. (3) of Article 20 of the Constitution ?

ISSUE

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The circumstances of the arrest of the appellant while escaping from the truck, the seizure of the truck and the goods, the contraband nature of the goods, the fact that at the time of the seizure, the goods, were in the charge of the appellant, the fact that no duty on these goods had been paid, the seizure of Rs. 2,000/- as cash from the appellant etc. were proved by evidence aliunde rendered by P. Ws. 1 and 2.

ANALYSIS

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To some extent, the hostile witness, P.W. 5, also, supported the prosecution.

ANALYSIS

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The circumstances established unmistakably and irresistibly pointed to the conclusion that the appellant was knowingly concerned in a fraudulent attempt at evasion, if not, fraudulent evasion, of duty chargeable on those contraband goods.

RATIO

ANALYSIS

In the result, the appeal fails and is dismissed.

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