

State of Maharashtra vs Natwarlal Das Soni (1980) 4 SCC 669

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INTRODUCTION

The judgement was delivered by R.S Sarkaria and O Chinappa Reddy in the Supreme Court of India. The High Court of Bombay's decision from the 13th of October 1972 has been subjected to appeal by special leave.

FACTS OF THE CASE

The staff of the Anti-Corruption Bureau searched the residential premises of the accused respondent. The respondent was not in the home at that time. The search was conducted in the presence of his wife and mother. As a result of the search, gold biscuits of foreign marking. The recovered gold was currently worth 185 000 rupees. After the panchnama was prepared, the customs authority also broke in and thereupon, the "Anti-Corruption Bureau" issued a second panchnama under which the Customs authorities took control of the gold. However, the respondent eluded capture for a week before turning himself in. At that time, the respondent took the defence that someone else had brought the gold and left it there while he was away.

LEGAL ISSUES

Q1. Whether the interpretation of gold by the High Court narrowly interpreted the terms "possession" and "keeping" in "section 135(1) of the customs act"?

ARGUMENTS

Arguments before the Trial Court

Before the trial court, the learned Attorney representing the respondent claims that the police's search of his home and confiscation of the gold from it were illegal, that the material they used to justify the search was stopped, and that the subsequent trial was tainted as a result of this illegality. The plea was taken that because the gold had been taken by the officer under the CrPC, the Customs Act, which sets the burden of proof on the incriminated person to prove that seized commodities are not smuggled gold, was inapplicable as per the "Customs Act

1962". Since this is the case, it follows that the prosecution must show each element of the offences for which the accused is being held accountable.

The petitioner had held that the accused respondent was smuggling gold that was found in his possession. The alleged respondent insisted on being tried while rejecting the charge. His defence was that one Jayantilal Salla had brought the gold there and left it there while he was away. The responder argued further that he had no connection to the gold. He claimed that Jayantilal, who served as the prosecution witness, in this case, was the only person who could be held accountable.

Arguments before the High Court

The prosecution has been hanging over the respondent's head for more than eleven years, according to Mr. Shiv Pujan Singh, the respondent's counsel, and the owner of the allegedly stolen gold biscuits, an archcriminal, has escaped, making the respondent a scapegoat. It is emphasised that because the accused is a first-time offender, he should be released on probation.

ANALYSIS

The Mischief Rule of interpretation has been applied, which is designed to suppress smuggling activities which needs to be liberally construed so as not to undermine its scheme. The respondent was found guilty of violating Sections 135(a) to be seen with Section 135(i) and Section 135(b) with Section 135(i) of the Customs Act by a two-judge bench of the Trial Court and was sentenced to six months of rigorous imprisonment.¹

The High Court had acquitted the indicated person. The court only found the accused not guilty as the government could not prove that the gold had been imported after 1947 without the authorization of RBI or not paying the duty, and the knowledge of the indicated person is not

¹ State of Maharashtra vs. Natwarlal Damodardas Soni (1980) 4 SCC 669, SCC Online®, Legal Research Solution, <http://www.sconline.com.eu1.proxy.openathens.net/DocumentLink/12Ef54nt> (last visited Aug 17, 2022).

looked at. This defence allowed the judiciary to reject the defendant's first two claims made against him. The court rejected certain unmistakable facts that were given in the evidence and proved beyond a reasonable doubt that the gold was smuggled. The following facts apply:

- 1) Foreign marking of the gold biscuit
- 2) Gold of 24-carat purity, not present in India
- 3) It was discovered and sewed into the folds of a jacket
- 4) The gold was in the form of biscuits that had a high market value

Because the gold in question was recently imported duty-free from abroad and because it was imported in violation of a notification given under “Foreign Exchange Regulation Act, 1947”, which forbids bringing gold into India without the Reserve Bank's consent. The aforementioned facts compel an unavoidable conclusion that it was smuggled. It featured foreign markings and was shaped like 24-carat biscuits, as was already reported. The courts below claim that the accused respondent was found to possess it after it had been made illegal to import it into India.

The Supreme Court allowed the present appeal and held that:

1. The police had powers under CrPC to search and seize the gold and even if the search was unlawful, it won't invalidate the seizure, the Customs Authority's subsequent investigation, or the legality of the case.²
2. By demonstrating circumstances that would persuade a reasonable person that it was smuggled, the prosecution can satisfy its burden of proof under suits where section 123(1) of the “Customs Act” was not infringed.
3. The Mischief Rule was used in this case because the smuggling of gold into India has an impact on the nation's financial stability and public economy.

² State of Maharashtra vs. Natwarlal Damodardas Soni (1980) 4 SCC 669, Manupatra, http://d2.manupatra.in/ShowPDF.asp?fname=State_of_Maharashtra_vs_Natwarlal_Damodardas_Soni_s790518_COM580595.pdf (last visited Aug 17, 2022).

This Court observed that the expressions "acquires possession" and "keeping" in the Customs Act are not to be limited to "possession" or "keeping" as a holder or user of the goods, noting: "Such a narrow construction, which has been mistakenly adopted by the High Court - in our opinion, would defeat the object of these provisions and undermine their efficacy as instruments for suppressing miscellaneous imports."

The term "acquires possession" has a very broad amplitude when construed with the statute's intent, the rationale and the situation.

4. Circumstantial evidence may also be used to prove the mansion's mens rea required by section 135(1) or the guilty knowledge. The prosecution has to demonstrate the following to support the charge:

1. that he had obtained ownership of or was involved in the preservation of the gold bars in any way.
2. that he was liable for what he knew or had reason to believe that these gold bars were things that were obtained unlawfully, thus he confiscated them with Section 111 of the Customs Act.

5. The Defence of India Act's Rule 126-H (2)(d) and Rule 126-P (2) cannot be considered to be limited to taking possession. It punishes anyone who has any amount of gold in their possession or under their control in violation of any rule, and the court is unable to exempt smuggled gold from this rule.

6. According to Section 135(1)(a) and (b), the Supreme Court sentenced the respondent to six months in prison and a Rs. 2000 fine, with an additional 4 months of imprisonment if the fine was not paid. The sentence had been mitigated because the criminal proceedings were pending for 11 years.

CONCLUSION

In my opinion, the accused should have been convicted as the circumstances showcased that the accused had smuggled gold. The error of the High Court had to be corrected by the judges of the Supreme Court to cover the gap in the law by interpreting the term of possession in a broad manner such that even a dealer or depositor's temporary control or custody of any products that the person has knowledge or believes are forbidden commodities will not be

exempt from clause (b). The rule is applied in specific cases for correcting a defect and implementing a remedy.

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SCC ONLINE

2. State of Maharashtra vs. Natwarlal Damodardas Soni (1980) 4 SCC 669, SCC Online®, Legal Research Solution, <http://www.sconline.com.eu1.proxy.openathens.net/DocumentLink/12Ef54nt> (last visited Aug 17, 2022).