

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(CRIMINAL APPELLATE JURISDICTION)

**Present:**

Mr. Justice Md. Kamrul Hosssain Mollah

**Criminal Appeal No. 4808 of 2005**

Mosammat Rina Begum

.... Appellant-Petitioner

-Versus-

The State

.... Opposite Party

No one appears

.... For the Convict-Appellant

Mrs. Yesmin Begum Bithi, D.A.G

.... For the State

**Heard on 31.07.2023 and**

**Judgment on: 01.08.2023**

**Md. Kamrul Hossain Mollah.J:**

This appeal has been preferred against the judgment and order of conviction dated 10.11.2005 passed by the learned Special Tribunal No.8, Comilla in Special Tribunal Case No. 342 of 2004 arising out of Laksham Railway G.R No.17 of 2004 corresponding to Laksham G.R.P Police Station Case No.2 dated 11.08.2004 convicting the appellant under Section 25B(2) of the Special Power Act, 1974 and sentencing her to suffer rigorous imprisonment for a period of 02 (two) years and

also to pay a fine of Tk.1000/-, in default to suffer rigorous imprisonment for a period of 03(three) months more.

The prosecution case, in brief, is that one Habildar Md. Habibur Rahman along with his force by forming a task force, under supervision of Magistrate, 3<sup>rd</sup> Class, Comilla on 11.08.2004 at about 9:00 hours started searching a local train in Comilla Railway Station and recovered ten bottles of He-Man-9000, six bottles of Bagpiper Whisky, 91 bottles of Phensidyl, twenty bottles of Codokuff from the possession of the appellant. The said accused is a smuggler and she brought those articles from India and the total price of those goods would be Tk. 14,000/- only. For this reason, the informant filed this case.

The Laksham G.R.P. Police registered the case as Laksham G.R.P. Police Station Case No.2 dated 11.08.2004 against the appellant under Section 25B(2) of the Special Powers Act, 1974.

Thereafter, the Investigating Officer took up the case for investigation and after having completed investigation submitted charge sheet No.7 dated 25.09.2004 against the

appellant under Section 25B(2) of the Special Powers Act, 1974.

Thereafter, it was transferred to the learned Special Tribunal No.8, Comilla as Special Tribunal Case No.342 of 2004 for trial and subsequently charge was framed against the appellant under Section 25B(2) of the Special Powers Act, 1974 on 28.11.2004.

The prosecution examined as many as 11 (eleven) witnesses and none from the defence and after conclusion of trial, hearing the parties the learned Special Tribunal No. 8, Comilla found the appellant guilty and convicted the appellant under section 25B(2) of the Special Powers Act, 1974 and sentenced her to suffer rigorous imprisonment for a period of 2 (two) years and also to pay fine of Tk.1000/- in default to suffer rigorous imprisonment for a period of 03 (three) months more by his judgment and order of conviction and sentence dated 10.11.2005.

Being aggrieved by and dissatisfied with the impugned judgment and order of conviction and sentenced dated 10.11.2005 passed by the learned Special Tribunal No.8,

Comilla, in Special Tribunal Case No.342 of 2004, arising out of Laksham Railway G.R No. 17 of 2004 corresponding to Laksham G.R.P Police Station Case No. 2 dated 11.08.2004, the convict-appellant filed this Appeal before the Hon'ble High Court Division.

No one appears for the convict-appellant, when this matter was taken up for hearing and disposal, although it appears in the daily cause list several times.

On the other hand, Mrs. Yesmin Begum Bithi, the learned Deputy Attorney General appearing on behalf of the state submits that one Habildar Md. Habibur Rahman along with his force by forming a task force, under supervision of Magistrate, 3<sup>rd</sup> Class, Comilla on 11.08.2004 at about 9:00 hours started searching a local train in Comilla Railway Station and recovered ten bottles of He-Man-9000, six bottles of Bagpiper Whisky, 91 bottles of Phensidyl, twenty bottles of Codokuff from the possession of the appellant. The Laksham G.R.P. Police registered the case as Laksham G.R.P. Police Station Case No.2 dated 11.08.2004 against the appellant under Section 25B(2) of the Special Powers Act, 1974 and after

having completed investigation the Investigating Officer submitted charge sheet No.7 dated 25.09.2004 against the appellant under section 25(B)(2) of the Special Powers Act, 1974. Thereafter, it was transferred to the learned Special Tribunal No. 8, Comilla for disposal. after conclusion of trial, hearing the parties the learned Special Tribunal No. 8, Comilla found the appellant guilty convicted the appellant under section 25B(2) of the Special Powers Act, 1974 and sentenced her to suffer rigorous imprisonment for a period of 2 (two) years and also to pay fine of Tk.1000/- in default to suffer rigorous imprisonment for a period of 03 (three) months more by his judgment and order of conviction and sentence dated 10.11.2005 rightly. Accordingly, she prays for dismissing the appeal.

I heard the submissions of the learned Deputy Attorney General for the State, considered the evidence and perused the materials on record.

It appears from the record that one Habildar Md. Habibur Rahman along with his force by forming a task force, under supervision of Magistrate, 3<sup>rd</sup> Class, Comilla on 11.08.2004 at

about 9:00 hours started searching a local train in Comilla Railway Station and recovered ten bottles of He-Man-9000, six bottles of Bagpiper Whisky, 91 bottles of Phensidyl, twenty bottles of Codokuff from the possession of the appellant.

In this case prosecution examined as many as 11 witnesses among them P.W.1 as informant supported the case by giving evidence and giving description of recovered alamat. P.W.2 Constable Ismail Hossain, P.W.3 Constable Mamunur Rashid, P.W.4 Tarun Kanti Khishan supported the P.W.1 (informant). P.W.5 Constable Abul Khair, P.W.6 Constable Abdul Malek, P.W.7 Narayan Chandra also supported the FIR story and about the recovered alamat. P.W.8, the learned Magistrate Md. Shamsul Alom also corroborated the P.W.1 and P.W.9 and P.W.10 are the local witnesses, both them admitted that the seizure list alamat were recovered from the appellant and they identified their signature in the seizure list. From the aforesaid discussion, it is clear that the informant and others witnesses supported the case in their depositions.

Considering the above facts and circumstances and materials on record, it is my view that the learned Special Tribunal No.8, Cumilla passed the judgment and order of

conviction and sentence dated 10.11.2005 rightly, which is maintainable in the eye of law and there is no chance to interference with the said judgment and order of conviction and sentence dated 10.11.2005.

Accordingly, the appeal, therefore, has no merit.

In the result, the Criminal Appeal No.4808 of 2005 is dismissed.

The judgment and order of conviction and sentence dated 10.11.2005 passed by the learned Special Tribunal No.8, Cumilla in Special Tribunal Case No.342 of 2004 arising out of Laksham Railway G.R. No.17 of 2004 corresponding to Laksham G.R.P. Police Station Case No.2 dated 11.08.2004 is hereby confirmed and upheld.

The order of bail granted earlier by this Court is hereby cancelled and recalled.

The convict-appellant is hereby directed to surrender before the concerned lower Court within in 30(thirty) days from the date of receipt of this judgment and order, failing which the concerned lower Court will take necessary steps to secure arrest him.

Send down the lower Court records along with a copy of the judgment and order to the concerned Court below at once.

*Md. Anamul Hoque Parvej*  
*Bench Officer*

