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SURJEET SINGH CHHABRA

v.

UNION OF INDIA AND ORS.

OCTOBER 25, 1996

B

[K. RAMASWAMY AND S.P. KURDUKAR, JJ.]

*FERA/Customs Duty :*

C

*Purchasing gold—Making it into an ornament 'Kara'—Wearing it while coming to India—Whether attracts duty—Held admittedly gold was purchased, converted as Kara and brought to India—Hence not entitled to the benefit of exemption as symbol of religious wear.*

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C)  
No. 14028 of 1996.

D

From the Judgment and Order dated 30.1.96 of the Delhi High Court in C.W.P.No. 398 of 1996.

Harjinder Singh and R.N. Joshi for the Petitioner.

E

The following Order of the Court was delivered :

F

We have heard learned counsel for the petitioner. We do not think that it is a case warranting interference for the reason that the appellate authority had initially referred back the matter to the primary authority to reconsider the matter in the light of the directions issued in that order.

G

After reconsideration, the confiscation order has been passed in respect of the gold and in respect of the two items, i.e., FAX machine and video camera and compounding fee was ordered. On appeal, it was confirmed and on revision it was also confirmed. The petitioner filed a writ petition in the High Court. The High Court in the impugned order dated January 30, 1996 summarily dismissed the writ petition. Thus, this special leave petition.

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It is contended by learned counsel for the petitioner that the petitioner is entitled to cross-examine the Panch witnesses and the Seizing Officer for the goods seized in contravention of the FERA & Customs Duty Act and that the opportunity has not been given. Therefore, it is

violative of natural justice. A

It is true that the petitioner had confessed that he purchased the gold and had brought it. He admitted that he purchased the gold and converted it as a *Kara*. In this situation, bringing the gold without permission of the authority is in contravention of the Customs Duty Act and also FERA. When the petitioner seeks for cross-examination of the witnesses who have said that the recovery was made from the petitioner, necessarily an opportunity requires to be given for the cross-examination of the witnesses as regards the place at which recovery was made. Since the dispute concerns the confiscation of the jewellery, whether at conveyor belt or at the green channel, perhaps the witnesses were required to be called. But in view of confession made by him, it binds him and, therefore, in the facts and circumstances of this case the failure to give him the opportunity to cross-examine the witnesses is not violative of principle of natural justice. C  
It is contended that the petitioner had retracted within six days from the confession. Therefore, he is entitled to cross-examine the panch witnesses before the authority takes a decision on proof of the offence. We find no force in this contention. The Customs official are not police officers. The confession, though retracted, is an admission and binds the petitioner. So there is no need to call panch witnesses for examination and cross-examination by the petitioner. D

It is contended that under the Rules jewellery is exempted articles. *Kara* being a symbol of the religious wear by the Sikh community, it is a jewellery exempted from the Act and it cannot be confiscated. In view of the admission that he had purchased gold, converted as *Kara* and brought as such, he necessarily used it. Therefore, he is not entitled to the benefit of exemption. Under these circumstances, we do not find any illegality in the order passed by the authority warranting interference. E F

The Special Leave Petition is accordingly dismissed.

G.N.

Petition dismissed.