

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO. 1760 OF 2009**

**DHURUKUMAR S/O RADHAKISHAN  
PITTI & ANR.**

**... APPELLANTS**

**VERSUS**

**THE STATE OF MAHARASHTRA**

**...RESPONDENT**

**J U D G M E N T**

**S.ABDUL NAZEER, J.**

1. The appellants were convicted by the trial court under Section 7 of the Essential Commodities Act, 1955 and sentenced to undergo rigorous imprisonment for three months and to pay a fine of Rs.500/- each and in case of default, they were directed to undergo a further imprisonment for a period of 15 days. The

High Court upheld the conviction and sentence of fine. The appellants have challenged the legality and correctness of the said judgment in this appeal.

2. Having heard learned counsel for the parties, we do not find any ground to interfere with the judgment of the High Court. At this stage, learned counsel for the appellants submitted that the appellants are the first offenders. Therefore, the appellants may be dealt with under Section 360 of the Code of Criminal Procedure, 1908. It is true that the appellants do not have antecedents of offender. Both of them are the first offenders. Having regard to the facts and circumstances of the case, we are of the view that the appellants should have been dealt with under Section 360 Cr.P.C. The ends of justice would be met by granting the benefit of Probation of Offenders Act, 1958 to the appellants. We order accordingly. Hence, the appeal is allowed in part and while upholding the conviction and sentence of fine awarded to the appellants, sentence of imprisonment awarded against them is set aside and the trial court is directed to deal with them under

the provisions of Section 360 of the Code of Criminal Procedure,  
1908.

.....J.  
**(R.K. AGRAWAL)**

.....J.  
**(S. ABDUL NAZEER)**

**New Delhi;  
October 4, 2017.**