

BAIL SLIP

The Petitioner Name Dakshinamoorthy was released on bail as per order of this Court dated 29/4/2010 made in MP.No.1/2010 in CrI.R.C.No.470/10

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2015

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

CrI.R.C.No.470 of 2010

Dakshinamoorthy

... Petitioner

vs

The State Rep by
The Station House Officer,
Food Cell Police Station
Karaikal

... Respondent

Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, to set aside the order passed in CrI.Appeal No.5 of 2010 dated 23.04.2010 by learned Additional Sessions Judge, Puducherry at Karaikal by confirming the order in C.C.No.24 of 2001 dated 26.02.2010 by learned Judicial Magistrate,II,Karaikal by allowing the Criminal Revision.

For Petitioner : Mr.S.Sounthar

For Respondent : Mr.M.R.Thangavelu, APP (P)

सत्यमेव जयते

O R D E R

This revision arises against two concurrent judgments of Courts below convicting the petitioner/accused for offences u/s.7(i)(a)(ii) of Essential Commodities Act, 1955 and sentencing him to undergo 1 year R.I. and fine of Rs.1,000/- i/d 1 month S.I.

2. The prosecution case was that the petitioner, while working as a sales man in a fair price shop at Nallathur, made false entries in registers and thereby committed offence punishable under the Essential Commodities Act. A case in Crime No.4 of 1997 on the file of

respondent was registered. Upon completion of investigation and filing of charge sheet, the case was tried in C.C.No.24/2001 on the file of learned Judicial Magistrate II, Karaikal, for alleged contravention of Clause 4(a) and (b) of the Pondicherry Essential Commodities (display of Stock and Prices and Maintenance of Accounts) Orders 1975.

3. Before the trial Court, the prosecution examined twelve witnesses and marked 14 exhibits. None were examined on behalf of the defence nor were any exhibits marked. On appreciation of materials before it, trial Court, under judgment dated 26.02.2010, rendered a finding of conviction for offence u/s.7 (i)(a)(ii) of the Essential Commodities Act, 1955 and sentenced the petitioner to undergo 1 R.I. and fine of Rs.1,000/- i/d 1 month S.I. Against such finding, petitioner preferred C.A.No.5 of 2010 on the file of learned Additional Sessions Judge, Puducherry at Karaikal. The appellate Court, under judgment dated 23.04.2010, dismissed the appeal. Hence, this revision.

4. Heard learned counsel for petitioner and learned Additional Public Prosecutor (Puducherry).

5. Under G.O.Ms.No.19 dated 03.07.1975, Government of Pondicherry, Revenue Department (Civil Supplies), every dealer, which would include also a salesman conducting business on behalf of its principal, was required to maintain true and correct accounts of essential commodities acquired or sold and furnish returns thereof to the officer authorized and through prescribed forms. Such requirement has been imposed pursuant to powers u/s. 3 (2) (i) of the Essential Commodities Act, 1955 (hereinafter the 'Act'). The contravention of the requirements above stated would attract punishment under Section 7 (i) (a)(i) of the Act, whereunder the person accused may be sentenced to imprisonment for a term which may extend to one year and shall also liable to fine. Section 468 (2) Cr.P.C imposes a bar against cognizance after a period of one year in respect of offences punishable for a term not exceeding one year. In the instant case, in relation to alleged offences dated 01.05.1997 and 03.09.1997, a charge sheet has been filed on 08.12.1999 and admittedly no petition u/s. 473 Cr.P.C seeking extension of period of limitation had been moved. Therefore, the prosecution for offence u/s.7(i)a(ii) of the Act was barred as on the date of filing charge sheet. The other offences which prosecution alleges would be offences under the IPC for which the petitioner has not been charged or tried. In the circumstances, this revision succeeds.

6. This Criminal Revision is allowed. The order of the Court below is set aside. Petitioner is acquitted of the charge against him. Fine amount, if any paid, shall be refunded to him. Bail bond, if any, executed by him shall stand cancelled.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Additional Sessions Judge, Puducherry at Karaikal
2. The Judicial Magistrate, II, Karaikal
3. The Chief Judicial Magistrate
Puducherry
4. The officer Incharge, Sub Jail,
Karaikal
5. The Public Prosecutor,
High Court, Puducherry
6. The Station House Officer, Food Cell,
Police State Station Karaikal

+1 cc to Mr.S.Sounthar Advocate sr.65339

Cr1.R.C.No.470 of 2010

vsn(co)
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