

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.451 of 2015

ORDER :

The present Criminal Revision Case is filed under Sections 397 and 401 of the Code of Criminal Procedure (Cr.P.C.), aggrieved by order dated 19.02.2015 passed in CrI.A.No.205 of 2014 on the file of the Principal Sessions Judge, Rajahmundry, wherein and whereunder the order dated 16.07.2014 passed in V10/CS/230/2014 by the Collector-cum- District Magistrate, East Godavari District, Kakinada ordering confiscation of 10% of the value of the seized stocks of rice and paddy was altered to that of paddy only.

The facts in issue are as under:

On 22.04.2014, on receipt of credible information that Sri Thammila Veera Venkata Satyanarayana, M/s Balaji Rice Mill, Kandarada Village of Pithapuram Mandal, is indulging in clandestine business, the Vigilance and Enforcement Officials, Rajahmundry and CSDT, Pithapuram along with mediators jointly surprised the petitioners' mill located in Door No.4-30/1 at 4.00 PM. At that time, one Sri Thammila Veera Venkata Satyanarayana @ Abbu was present. On verification, the authorities found variations relating to paddy in book balance and ground balance to an extent of 2655 quantals. The authorities also found variation in rice. On questioning, the petitioners are alleged to have stated that their clerk was out of station since last four five days and as such entries could not be made. As the explanation was not convincing and as the investigating agency found that the petitioners indulged in clandestine business for pecuniary gains initiated proceedings.

A show cause notice came to be issued to the petitioners under Section 6-A of Essential Commodities Act, 1955 (for short 'the

Act') calling for an explanation as to why stocks should not be seized. In the explanation, the petitioners submitted that when the milling process was going on, the stock register was sent to civil supplies officer for getting the permits and thereby the entries relating to the paddy under variation were not made. On perusal of 'B' register, it was found that about 3884 quintals of paddy was in process. At the time of inspection, the book balance of paddy was shown as 8000 quintals, whereas the stocks in the godown was 5345 quintals, excluding the paddy under process, which is 2655 quintals. After considering the contents of explanation, the Collector held that there was variation in paddy and rice and accordingly ordered confiscation of 10% of total seized stock of rice and paddy equivalent to Rs.9,37,303/- to the Government under Section 6-A of the Act.

Aggrieved by the same, an appeal was filed and the learned Sessions Judge. After hearing both sides, the learned Sessions Judge allowed the appeal in part by setting aside the order of the Collector in ordering confiscation of 10% of rice but however confirmed the confiscation of paddy. Challenging the same, this revision is filed.

Learned counsel for the petitioners mainly submits that there is no variation of paddy, since 3884 quintals paddy was under process, which should have been deducted from the book balance before calculating actual variation.

A perusal of the mediators report and the record show that 'B' register was seized at the time of inspection. The entries made in the said register are not disputed before the trial Court. The actual variation of paddy, after deducting the permissible variation was in excess of 589 quintals only whereas 2655 quintals of less stock was shown. Though the variation shown is not correct there was significant variation in the stock of paddy which was not duly accounted. The contention that the entries of the day of inspection

could be made till the end of the day is untenable, for the reason that the entries of that day till the time of inspection were recorded in the said register.

Learned counsel for the petitioners submits that the quantum of confiscation ordered by the Collector is on higher side and seeks reduction of the same.

Having regard to the circumstances of the case and since it is not the case of the prosecution that the petitioners hoarded the stock or indulged in black marketing, this Court is inclined to reduce the value of confiscation from 10% to 5%.

With the above modification, the Criminal Revision Case is disposed of.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

23.04.2015
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