

HON'BLE SRI JUSTICE M.S.K.JAISWAL

Criminal Revision Case No.212 of 2013

ORDER:-

The petitioner is the respondent No.1 in Rc.No.K3/ATP/502/2010, dated 13-03-2012, before the Joint Collector and Additional District Magistrate, Anantapur. The petitioner is said to be the Fair Price Shop Dealer of Kammur (v), Kudair (M) of Anantapur District.

2. The brief facts are that on credible information, the Tahsildar, Vigilance and Enforcement, Anantapur and his staff caught hold of a vehicle bearing No.AP-02-X-7511 loaded with 32-00 Qtls., of PDS Rice in 64 FCI Bags on 02-06-2010 at Mettu Govinda Reddy Marriage Hall, Anantapur. The officials inspected the Fair Price Shop of the petitioner and Smt.Bhagyalakshmi, who is the wife of respondent No.3 before the Joint Collector, informed that the stock of 60-40 Qtls., of PDS Rice, 13-30 Qtls., of AAY Rice, 2-50 Qtls., of sugar and 511 liters of Palmolein Oil (all worth Rs.36,000/-) was received on 29-05-2010. Smt.Bhagyalakshmi failed to produce relevant registers and records to the Inspecting officers. On enquiry, it is revealed that the petitioner was involved in the act of sale of PDS Rice meant for cardholders under Public Distribution System to a tune of 32-00 Qtls. The entire stock was seized under a cover of panchanama.

3. A show cause notice was issued and the explanation of the petitioner was obtained. Having found the explanation to be not satisfactory, by Order, dated, 13-03-2012, the learned Joint Collector and Additional District Magistrate, Anantapur, directed the confiscation of 100% of the total seized quantity to the Government under Section 6-A of the Essential Commodities Act.

4. Aggrieved by the said orders, the petitioner preferred Criminal Appeal No.55 of 2012 on the file of the Sessions Judge, Anantapur, and by Judgment, dated 24-09-2012, the learned Sessions Judge taking into consideration the totality of the facts and circumstances held that the confiscation of 100% of the seized stock is liable to be reduced to 50%.

The appeal was accordingly disposed of confirming the order of the Joint Collector and Additional District Magistrate, Anantapur, subject to the reduction of the value of the confiscation from 100% to 50%.

5. The petitioner preferred the present revision contending that the authorities erred in not taking into consideration the explanation offered by him. Therefore, the orders need to be set aside.

6. The point that arises for consideration is as to whether the prosecution could prove its case beyond reasonable doubt?

7. **Point:-** The facts that are established are that the petitioner/1st respondent was the Fair Price Shop Dealer of Kammur (v), Kudair (m), Anantapur District. When the Fair Price Shop was inspected what was found was that certain quantities of PDS Rice, AAY Rice, Sugar and Palmolein Oil, all worth Rs.36,000/-, was found in a lorry and on enquiries, it was revealed that the said property belongs to the Fair Price Shop being run by the revision petitioner. When the dealer was called upon to produce the accounts, it is alleged that for the month of May, 2010, the relevant registers and records of the Fair Price Shop has not been produced. The inspecting Officer, however, did not find any variations or was there any allegation of indulging in any black-marketing or hoarding. The entire case is based upon the stock being found in the lorry and the non-petitioners/respondents No.2 and 3 claiming that the said commodities belong to the Fair Price Shop of the revision petitioner. Considering these aspects, the learned Sessions Judge vide Judgment, dated 24-09-2012 in Criminal Appeal No.55 of 2012, has reduced the order of confiscating 100% of the value of the seized stock as imposed by the Joint Collector, vide orders, dated 13-03-2012 to 50%.

8. Learned Counsel appearing for the petitioner submits that in the absence of there being any specific allegations against the petitioner, it is unreasonable to impose the punishment of confiscation of 50% of the value of the stock. It is submitted that the relevant stock register and other registers could not be produced immediately on demand and for that violation, the confiscation order is excessive.

9. Taking into consideration the above facts and circumstances, the

nature of the allegations, the findings of both the authorities, I am of the opinion that the ends of justice will be met if the confiscation is modified to an extent of 25% as against 50% directed by the learned Sessions Judge. Subject to this modification, the revision case is liable to be dismissed. The point is answered accordingly.

10. In the result, the Criminal Revision Case is dismissed while confirming the order of the authorities below, it is directed that 25% of the seized stock or the value thereof may be confiscated to the Government while releasing the remaining stock or value thereof in favour of the petitioner/dealer.

Miscellaneous petitions, if any, pending in this revision shall stand closed.

M.S.K.Jaiswal, J

8th July, 2015

smr