

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

Criminal Revision Case No.1540 of 2015

Between :-

Aravapalli Venkatarao

.. Petitioner

and

The State of A.P.,
Rep.by Public Prosecutor,
High Court, Hyderabad
And another

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 10th August, 2015

SUBMITTED FOR APPROVAL:

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

- | | |
|---|--------|
| 1. Whether Reporters of Local Newspapers
may be allowed to see the Judgment? | Yes/No |
| 2. Whether the copies of Judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3. Whether His Lordship wish to see
the fair copy of the Judgment? | Yes/No |

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

Criminal Revision Case No.1540 of 2015

ORDER:-

The petitioner is the respondent No.1 in E.C.Act Case No.122/2011-S7, dated 28-05-2012, before the Joint Collector and Additional District

Magistrate, Guntur. The petitioner is said to be the owner-cum-driver of mini lorry bearing registration No.AP 16V 1123.

2. This is a case of seizure of 35.000 Qtls., of PDS rice along with TATA ACE mini lorry bearing No.AP 16V 1123 by the complainant – The Civil Supplies Deputy Tahasildar, Phirangipuram, as the petitioner indulged in clandestine business by purchasing PDS Rice from the non-petitioners/Fair Price Shop Dealers (respondents No.2 and 3 before the Joint Collector) and transporting the same by his vehicle for selling the same to the needy persons at higher rates for his personal gain and the said Fair Price Shop Dealers also not distributing the stock to the cardholders and sold the rice stock to the petitioner at higher rates for their personal gain and finally the complainant filed a report before the Joint Collector with a request to confiscate the entire seized stock to the Government.

3. Show cause notices were issued to the petitioner and the non-petitioners and the explanation of the petitioner was obtained. Upon considering the material available on record, by Order, dated, 03-10-2012, the learned Joint Collector and Additional District Magistrate, Guntur, directed the confiscation of 100% of the total seized quantity to the Government under Section 6-A(1) of the Essential Commodities Act besides imposing penalty of Rs.75,000/- on the petitioner.

4. Aggrieved by the impugned penalty imposed by the Joint Collector, the petitioner preferred Criminal Appeal No.219 of 2012 on the file of the Sessions Judge, Guntur, and by Judgment, dated 03-10-2012, the learned Sessions Judge taking into consideration the totality of the facts and circumstances allowed the appeal in part confirming the impugned confiscation passed by the Joint Collector and Additional District Magistrate, Guntur, in E.C.Act Case No.122/2011-S7, dated 28-05-2012, while reducing the penalty from Rs.75,000/- to Rs.70,000/-

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:-** Admittedly, the petitioner transporting 35 quintals of rice without any waybill or licence for transportation. According to the complainant, the rice bags being transported by the petitioner was PDS Rice stock allegedly purchased from the respondents No.2 and 3 before the Joint Collector, but the Joint Collector believed that the rice stock was not purchased from the respondents No.2 and 3 and believed the contention of the respondents No.2 and 3 by the Joint Collector. The entire case is based upon the stock being found in the lorry and the non-petitioners/respondents No.2 and 3 did not claim the stock. Considering these aspects, the learned Sessions Judge vide Judgment, dated 03-10-2012 in Criminal Appeal No.219 of 2012, has reduced the penalty from Rs.75,000/- to Rs.70,000 while confirming the confiscation of the seized stock.

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 penalty of Rs.70,000/-.

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 penalty is reduced to Rs.35,000/- as against Rs.70,000/- 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 confirming the confiscation order of the authorities below while reducing the penalty from Rs.70,000/- to Rs.35,000/- (Rupees thirty five thousand only).

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

M.S.K.Jaiswal, J

10th August, 2015
Mva/smr