HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.2412 of 2014

ORDER :

The present Criminal Revision Case is filed under Sections 397 and 401 of the Code of Criminal Procedure (Cr.P.C.), aggrieved by judgment dated 08.07.2014 passed in Crl.A.No.60 of 2013 on the file of the Sessions Judge, Rajahmundry, wherein and whereunder the order dated 31.01.2013 passed in Reference No. V3/CS/395/2012 by the Collector-cum- District Magistrate, East Godavari District, Kakinada in ordering confiscation of 40% of the value of the seized stocks was confirmed.

The facts in issue are as under:

On 27.07.2012, on receipt of credible information that the petitioner, who is the Managing Partner of M/s Sree Lalitha Traders, Contractors Sri Annapurna Par Boiled Rice Mill, G.Ragampeta Village, Peddapuram Mandal, is indulging in clandestine business, the Assistant Grain Purchasing Officer, Kakinada along with Grain Purchasing Assistant and Food Inspector and mediators jointly inspected M/s Sree Lalitha Traders. At that time, the petitioner, who is the Managing Partner of M/s Lalitha Traders was present. On verification, the authorities found variations in paddy and boiled rice. As per book balance there should be 2348.52 quintals of paddy, but the ground balance was only 2139.94 quintals. Similarly Raw Rice, as per book balance was 148.32 quintals but the ground balance was 82.05 quintals and the boiled rice as per book balance was 605.44 quintals, whereas the ground balance was 465 quintals. On being questioned, the petitioner stated that his clerk did some mistake in calculating the yielding of rice as 69% instead of 68%. As the explanation was not convincing, the investigating agency having found that the petitioner indulged in clandestine business initiated the proceedings. A show cause notice was issued to the petitioner under Section 6-A of Essential Commodities Act, 1955 (for short 'the Act') calling for the explanation as to why stocks should not be seized. In the explanation, the petitioner submitted that during inspection only minor and marginal variations were noticed, but entire stock under the above four heads were seized. According to him, no quantity of PDS rice was found in the mill and its premises and that the variation relating to paddy was within the permissible limits ie. at 6%, since the miller in total purchased paddy at 73,413.11 quintals. The variation relating to Raw Rice at 60.87 quintals was also contended to be within the permissible limits at 6%. It was stated that the variation in boiled broken rice occurred due to non-accounting of blowers' chigure (Tavudu) at the end of the day. After considering the contents of the explanation, the Collector held that the petitioner failed to give any convincing reason for huge variations of paddy and rice and accordingly, confiscated 40% of the value of total seized stock to the Government under Section 6-A of the Act and ordered to adjust the bank guarantee furnished.

Aggrieved by the same, an appeal was filed before the learned Sessions Judge, who after hearing both sides, allowed the appeal in part by reducing the value of seized stock to be confiscated from 40% to 10%. Challenging the same, this revision is filed.

Heard learned counsel for the petitioner and learned Additional Public Prosecutor and perused the material available on record.

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 were not disputed before the trial Court. The variation relating to paddy was within the permissible limits, but the actual variation of Raw Rice, after deducting the permissible variation was in excess of 60.87 quintals. Though the variation shown was not correct, there was significant variation in the stock of paddy and boiled broken rice which was not duly accounted. The contention that the entries on the date 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 facts and circumstances of the case and as the prosecution failed to prove that the petitioners were hoarding the stock, this Court is inclined to reduce the value of confiscation from 10% to 6%.

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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CRIMINAL REVISION CASE No.2412 of 2014

DATE: 23.04.2015

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