

HON'BLE SMT. JUSTICE ANIS
CRIMINAL REVISION CASE No. 475 OF 2007

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ORDER:

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This Criminal Revision Case under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C') is filed by the revision petitioners/respondents 1

and 3 challenging the judgment dated 18.12.2006, passed by the learned District & Sessions Judge, Chittoor, in Criminal Appeal No.228 of 2003, whereunder and whereby the matter was remanded to the lower Court for fresh disposal.

2. The revision petitioners herein are the respondents 1 and 3 and the respondent No.2 herein is the complainant before the Joint Collector, Chittoor vide Case No.S3/6A/45/RGT/2000, dated 29.09.2000. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed before the trial Court.

3. The case of the prosecution in brief is that on receipt of credible information on 10.02.2000, the Inspector of Police, Vigilance Cell, Civil Supplies, Flying Squad, Tirupati along with his staff and mediators intercepted a lorry bearing No.AP21U 3559 near Vadamalpet village at Kadiri Mangalam cross road while it was moving towards Chennai and found respondents 1, 4 and 5 in the lorry. The 4th respondent produced some records to the complainant. On enquiry, the 4th respondent stated that on 09.02.2000 the 1st respondent loaded rice packets at M/s.Harika Enterprises and

2nd respondent loaded 35 packets of onion on the top of the rice packets at Radha Krishna Rice Mill at Cuddapah and the 2nd respondent was also present at the time of loading the rice packets in the lorry. On verification, they found no valid documents to transport

the rice packets to Tamil Nadu and hence the complainant seized the lorry along with the stocks.

4. After issuing notices to respondents 1 to 5, the Joint Collector, Chittoor passed orders on 29.09.2000, wherein it is clearly held that the respondents were transporting 220 packets of Sona Masuri Rice from Andhra Pradesh to Tamil Nadu without permit as required under Clause 8 of the A.P.Rice Procurement (Levy) Order, 1984 and therefore, the respondents contravened the Clauses 3 to 8 of A.P. Rice Procurement (Levy) Order, 1984. According to the Joint Collector, the charges framed against the respondents were proved and passed the following order:

“Hence I do not have any other option except to confiscate the entire seized stock to the State Government under Section 6A(1)(a) of the Essential Commodities Act, 1955 and imposed a fine of Rs.1,00,000/- (Rupees One Lakh only) on the owner of the Vehicle No.AP21U-3559 in lieu of its confiscation U/s.6A (1)(c) of the E.C. Act, 1955.”

5. Aggrieved by the order of the Joint collector, the respondents 1 and 3 preferred Criminal Appeal No.228 of 2003 before the District & Sessions Judge, Chittoor, wherein the matter was remanded to the lower Court for fresh disposal after considering the documentary evidence produced by the respondents in the appeal.

6. Instead of agitating the issue in dispute, the revision petitioners, who filed the documents before the appellate Court, filed the Criminal Revision Case challenging the Judgment in Criminal Appeal No.228 of 2003, dated 18.12.2006 on the ground that the Court below failed to consider that there was a valid permit to transport 220 bags of rice from Kadapa to Tamil Nadu and also not considered the request of the appellants to submit necessary documents to substantiate their case and without giving opportunity, confiscation orders were passed and they are liable to be set aside. It is further argued that the revision

petitioners have not violated clauses (3) to (8) of A.P. Rice Procurement (Levy) Order, 1984 and they are not applicable to the present case. It is also argued that there is no evidence that the owner of the lorry had any knowledge about the alleged transport of rice by the driver illegally under the guise of onion. It is finally argued that there is no satisfactory evidence against the revision petitioners for passing the order of confiscation.

7. On the other hand, the learned Public Prosecutor argued that the District & Sessions Judge, Chittoor passed the judgment on 18.12.2006 wherein he remanded the matter to the lower Court for fresh disposal of the case after considering the documentary evidence produced by the appellants therein and that order needs no interference of this Court and prayed to dismiss the revision case.

8. Now, the point for determination is –

Whether the revision petitioners are entitled to set aside the judgment passed by the appellate Court in remanding the matter to the lower Court for fresh disposal?

9. **Point:**

In the judgment of the appellate Court, it was observed that the appellants filed the documentary evidence to prove the alleged transport of rice is under the valid documentary evidence and they have not contravened any control order and filed the bunch of documents in support of their defence, but the said documents have not considered by the Joint Collector, as such the matter was remanded. Without contesting the matter before the Joint Collector regarding the documentary evidence produced to prove that there were valid documents for transportation, the present revision case is filed challenging the judgment in Criminal Appeal No.228 of 2003. Therefore, the contention of the revision petitioners to set aside the

confiscation order on the ground that owner of lorry had no knowledge about the transportation of the rice by the driver illegally and the lorry owner did not contravene any provisions, cannot be accepted. Further, the revision petitioners are the appellants in Criminal Appeal No.228 of 2003 and the respondents 1 and 3 before the Joint Collector in Case No.S3/6A/45/RGT/2000, dated 29.09.2000.

10. In view of the above facts and circumstances of the case, the revision petitioners are not entitled to interfere with the order of confiscation passed by the lower Court or remand order passed by the appellate Court.

11. Accordingly, the Criminal Revision Case is dismissed, confirming the judgment dated 18.12.2006, passed in Criminal Appeal No.228 of 2003 on the file of the District & Sessions Judge, Chittoor.

12. Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

ANIS, J

Date: 18.02.2015

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