

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

Criminal Revision Case No.765 of 2013

Between :-

N.Koteswara Rao .. Petitioner

And

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

DATE OF JUDGMENT PRONOUNCED: 21-07-2015

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.765 of 2013

ORDER:-

The petitioner is the respondent in E.C.Act Case No.174/2012-S7, dated 05-11-2012, before the Joint Collector and Additional District Magistrate, Guntur. The petitioner is said to be owner of a Fertilizer Shop at Vinukonda.

This is a case of seizure of 200 bags of 20:20:0 NFCL Urea Fertilizer from the house of the petitioner by the complainant as he unauthorizedly stored the same in his house with an intention to sell the same to the needy farmers at higher rates for his personal gain without having valid licence issued by the authorities concerned. The complainant filed a report before the Joint Collector with a request to confiscate the entire seized stock to the Government.

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, 05-11-2002, the learned Joint Collector and Additional District Magistrate, Guntur, directed the confiscation of 50% of the total seized quantity to the Government.

Aggrieved by the said orders, the petitioner preferred Criminal Appeal No.426 of 2012 on the file of the Sessions Judge, Guntur, and by Judgment, dated 29-01-2013, the learned Sessions Judge taking into consideration the totality of the facts and circumstances, dismissed the appeal confirming the order of the Joint Collector and Additional District Magistrate, Guntur.

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.

Learned Public Prosecutor submits that both the authorities have discussed all the aspects and came to the right conclusion and therefore the revision is liable to be dismissed.

It is not in dispute that the petitioner/respondent was the Proprietor

of a Fertilizer shop and 200 bags of 20:20:0 NFCL Urea Fertilizer was seized from his house. Storing of such huge quantity of fertilizers is in contravention of clause 7 of Fertilizer (Control) Order and thereby both the authorities rightly concluded that the petitioner is storing the fertilizer without obtaining any licence, in contravention of clause 7 of Fertilizer (Control) Order and ordered confiscation

Taking into consideration of all the 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 20% as against 50%. Subject to this modification, the revision case is partly allowed.

In the result, the Criminal Revision Case is partly allowed, while confirming the orders of the authorities below, it is directed that 20% 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.

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

M.S.K.Jaiswal, J

21st July, 2015

Smr/mva

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

Criminal Revision Case No.765 of 2013

Smr/mva

21-07-2015