

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

**Criminal Revision Case No. 1467 of 2013**

Between:

Smt. S. Syamalabai

.. Petitioner (s)

And

The State of AP., rep. by its Public Prosecutor,  
High Court of AP, Hyderabad and another.

.. Respondent (s)

DATE OF JUDGMENT PRONOUNCED: 29.07.2015

-

-

**SUBMITTED FOR APPROVAL:**

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

1. Whether Reporters of Local newspapers Yes/No  
may be allowed to see the Judgments?

2. Whether the copies of judgment may be Yes/No  
marked to Law Reporters/Journals?

3. Whether Their Ladyship/Lordship wish to Yes/No  
see the fair copy of the Judgment?

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

**Criminal Revision Case No. 1467 of 2013**

**Order:**

This Criminal Revision Case is directed against the judgment, dated 11.03.2013, passed in CrI.A. No. 14 of 2012 by the learned Principal District and Sessions Judge, Visakhapatnam, modifying the order, dated 21.01.2012, passed in CC No.105 of 2011 by the Joint Collector, Visakhapatnam, to the extent it went against the petitioner herein.

2. The facts, in brief, are that, on 10.08.2011, while the dealer of fair price shop No.11 was diverting 74 bags of PDS rice, each bag containing 25 Kgs of rice, in the

Auto of respondent No.4, bearing registration No.AP35-V-5491, the police caught hold of the Auto and rice. On receipt of the report from the Station House Officer, Bheemunipatnam, the complainant – Deputy Tahsildar, Civil Supplies, Bheemunipatnam, has taken possession of the said stock of PDS rice and the Auto into custody and inspected the Fair Price Shop No.11 and noticed that the petitioner/respondent No.1, dealer of Fair Price Shop No.59, was in actual in-charge of Fair Price Shop No.11 after the death of Trinadha Rao, who was the dealer of Fair Price Shop No.11, and that she authorized respondent No.3 namely Suguna, wife of Trinadha Rao, to look after the Fair Price Shop No.11. Respondent No.2 namely Vijaya is the daughter of respondent No.3. Thereupon, the Civil Supplies Deputy Tahsildar inspected the Fair Price Shop Nos.11 and 59 and on verification of stock registers he found excess stock of 0.64 quintals of rice in shop No.11 and 1.47 quintals of excess rice in shop No.59. Therefore, he seized 18.5 quintals of rice, 38 quintals of PDS rice, 10 quintals of PDS wheat and 17.5 quintals of PDS rice from FP Shop Nos.11 and 59 and handed over the same to fair price shop dealers bearing Nos.62 and 59 respectively for safe custody and filed a complaint, under Section 6-A of the Essential Commodities Act, 1955, before the Joint Collector, Visakhapatnam, for confiscation of stocks seized from the business premises of the respondents to the Government.

3. The Joint Collector, Visakhapatnam, on consideration of the entire material on record, by an order dated 21.01.2012, ordered that the entire stocks seized from the business premises of FP Shop Nos.59 and 11 and also the entire PDS rice being diverted by the respondents 2 and 3 in the auto of respondent No.4 be confiscated to the Government. Against the said orders, the petitioner herein, who is respondent No.1 in the complaint, filed Criminal Appeal No.14 of 2012 before the Principal District and Sessions Judge, Visakhapatnam, and the learned Sessions Judge, by judgment, dated 11.03.2013, allowed the appeal in part and the order of the confiscation of the commodities seized from the Fair Price Shop Nos.11 and 59 and the rice seized from the Auto is modified to the confiscation of three times of the difference of market value and the value under PDS system for the said 74 bags of rice besides confiscation of 0.64 quintals of excess rice found in Fair Price Shop No.11 and confiscation of value of 1.47 quintals of excess rice seized from Fair Price Shop No.59 and to release the remaining value of the stock seized to the petitioner herein. Aggrieved by the said judgment to the extent it went against the petitioner

herein i.e., confiscation of three times of the difference of market value for the said 74 bags of rice, she filed the present revision.

4. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State.

5. A perusal of the record would show that on 10.08.2011 an Auto bearing registration No.AP35-V-5491, being driven by the fourth respondent, was intercepted and found therein 74 bags of PDS rice, each bag containing 25 Kgs of rice. The fourth respondent – auto driver is said to have informed the authorities that he was transporting the rice at the instance of the respondents 2 and 3, who are not the petitioners herein. The Fair Price Shop Nos.11 and 59, with which the petitioner/first respondent is concerned, were inspected by the authorities and 0.64 quintals of excess rice was found in Shop No.11 and, 1.47 quintals of excess rice was found in shop No.59. The authorities have seized the entire stock from both the shops which works out to 18.5 quintals of rice, 38 quintals of PDS rice, 10 quintals of PDS wheat and 17.5 quintals of PDS rice. During the course of enquiry before the Joint Collector, the petitioner/first respondent did not set up any claim insofar as 74 bags of rice (18.5 quintals) being transported in the auto is concerned. Even according to the fourth respondent, the said rice was transported at the instance of respondents 2 and 3. After enquiry, the Joint Collector, Visakhapatnam, has directed confiscation of entire seized stock and, aggrieved thereby, the petitioner/first respondent preferred Criminal Appeal No.14 of 2012 and, by the impugned judgment, dated 11.03.2013, the learned Sessions Judge has held that the entire quantity of rice seized from the FP Shop Nos.11 and 59 are not liable to be confiscated and only excess rice stock of 0.64 quintals and 1.47 quintals found in FP Shop Nos.11 and 59 respectively were liable to be confiscated to the State and rest of the stocks are liable to be returned to the petitioner. However, with regard to 74 bags of PDS rice found in the Auto, the learned Sessions Judge has held that the same are liable to be confiscated and, in addition thereto, three times of the difference of market value and the value under PDS system for the said 74 bags of rice is liable to be imposed.

6. Learned counsel for the petitioner submits that imposition of three times of the difference of market value for 74 bags of rice, said to have been found in the auto of

the fourth respondent, against the Fair Price Shop Nos.11 and 59 with which the petitioner is concerned, is not proper and justified and the same is liable to be set aside.

7. Admittedly, no revision or appeal has been preferred by the respondents 2 and 3 nor did the State prefer any revision against the impugned judgment. Though the learned Sessions Judge is justified in directing confiscation of the excess quantity of rice found in FP shop Nos.11 and 59, there is no justification whatsoever in imposing three times of the difference of market value for the 74 bags of PDS rice found in the auto against the petitioner/first respondent. Subject to this modification in the judgment of the learned Sessions Judge, the same is liable to be confirmed.

8. Accordingly, the Criminal Revision Case is allowed in part holding that only 74 bags of PDS rice found in the auto, 0.64 quintals of excess rice found in FP Shop No.11 and 1.47 quintals of excess rice found in FP Shop No.59 are liable to be confiscated to the State and rest of the seized stocks are liable to be returned to the petitioner/first respondent.

9. As a sequel thereto, the miscellaneous petitions, if any, pending in the Criminal Revision Case shall stand closed.

---

**M.S.K. JAISWAL, J.**

Date: 29.07.2015

Nsr