

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2016

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.24617 of 2016 & Crl.M.P. No.11825 of 2016

1 Meer Naimuddin Ahmed

2 Meer Rahimuddin Ahmed

Petitioners

Vs.

State of Tamil Nadu
represented by the Inspector of Police
CSID P.S.
474 Anna Salai, E.V.R. Periyar Building
Nandanam, Chennai 600 035

Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in FIR in FIR No.170/2016 on the file of the respondent and quash the same as an abuse of process of Court.

For petitioners
For respondent

Dr. S.N. Amarnath
Mr. C. Emalias
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to call for the records in FIR No.170/2016 on the file of the respondent and quash the same as an abuse of process of Court.

2 On 12.08.2016, the respondent police intercepted a truck bearing Registration No.KA 04 D 9865 in Maduravoyal Bye-pass and on inspection of the truck, it was found to contain 50 bags of PDS rice along with certain other materials. The driver of the truck and co-occupant were questioned by the police and based on the confession given by Meer Naimudeen Ahmed, the co-occupant, the respondent police have registered a case in Crime No.170 of 2016 against four persons for offences under Section 6(4) of the Tamil Nadu Scheduled Commodities (RDSCS) Order, 1982 read with Section 7 (1)(a)(ii) of the Essential Commodities Act, 1955, challenging which, A1 and A3 are before this Court.

3 The learned counsel for the petitioners submitted that the truck was not intercepted at Maduravoyal Bye-pass and that the police officials came to Periamet, where, the truck was parked and took the truck with the goods to the police station and thereafter, they have made it appear as though the truck was intercepted during vehicular check up.

4 These are disputed questions of fact, which cannot be gone into, in a petition under Section 482, Cr.P.C.

5 The learned counsel for the petitioners placed strong reliance under Section 6-A of the Essential Commodities Act, 1955 and submitted that no confiscation proceedings have been initiated and the truck is still lying in the police station.

6 *Per contra*, the learned Additional Public Prosecutor submitted that the police have submitted a report to the Deputy Commissioner of Civil Supplies, who is the competent authority for initiating confiscation proceedings and the same is in progress.

7 An action under Section 6-A of the Essential Commodities Act is an action in rem, whereas, a criminal prosecution is an action in personam and one would not have ramification on the other. When the FIR *prima facie* discloses commission of an offence, the same cannot be quashed in the light of the law laid down by the Supreme Court in *State of Haryana vs. Bhajan Lal* [1992 Supp (1) SCC 335].

P.N.PRAKASH,J,

cad

8 Under such circumstances, this Criminal Original Petition is dismissed with liberty to the petitioners to work out their remedy in the manner known to law, with regard to confiscation proceedings. Connected Crl.M.P. is closed.

10.11.2016

cad

To

- 1 The Inspector of Police
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474 Anna Salai, E.V.R. Periyar Building
Nandanam, Chennai 600 035
- 2 The Public Prosecutor
High Court of Madras
Chennai 600 104

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