

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1009 of 2016

ORDER:

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1. This Criminal Revision Case is filed by the petitioners aggrieved by the Judgment dated 5.1.2016 passed in CrI.A.No.275 of 2011 by the Principal Sessions Judge, Nellore.

2. Brief facts of the case are as follows:

On the night of 23.8.2009, while the Sub-Divisional Police Officer, Nellore (Urban), along with his team of Officers, was checking the vehicles plying on NH-5, at about 11.20 p.m., he stopped few lorries at Bujabuja Nellore, for the purpose of checking. On noticing the same, the drivers of 21 lorries fled away leaving their lorries on the national highway. The lorry bearing No.AP-26-W-9927 is one of such lorries. On inspection, the police found that it was loaded with rice. No documents including permit, way bill and invoice were found available in the lorry. The said lorry was seized with the commodities and handed over to the Civil Supplies Department officials on 24.8.2009. The authorities of Civil supplies after following necessary formalities seized the lorry and stock and filed a case before the Joint Collector, SPSR, Nellore alleging violations of Sections 7 and 8 of A.P. Rice Procurement (Levy) Order 1984 (for short, 'the Levy Order'). The Joint Collector after conducting enquiry, rejected the explanation of the petitioners and passed orders for confiscation of 20% of the stock seized to the Government, while imposing penalty of Rs.20,000/- on the 2nd petitioner-owner of the lorry. Against the said order, the petitioners filed appeal viz., CrI.A.No.275 of 2011 before the learned Principal Sessions Judge, Nellore. On re-appreciation of evidence, the learned Sessions Judge dismissed the appeal confirming the order of the Joint Collector passed in Rc.B.No.456 of 2009. Aggrieved by the

same, the petitioners filed this revision.

3. Heard and perused the material available on record.

4. It is the case of the petitioners that the 1st petitioner has complied with the levy target fixed by the Government and that the seized stock was being transported to Kerala, under valid bills and way bill. From the judgment under appeal, it is evident that the said bills were not available at the time of seizure of the stock. Therefore, the learned Sessions Judge came to the conclusion that the said documents were created subsequent to seizure of the stock. Further, the petitioners have not produced any certificates establishing that they obtained any release certificates so as to establish that the stock seized is levy free-rice. Therefore, the learned Principal Sessions Judge concurred with the findings of the Joint Collector.

5. Considering the facts and circumstances of the case and in view of the concurrent findings of both the authorities below with regard to illegal transportation of the stock seized in the present case, this Court is not inclined to interfere with the judgment under revision.

6. At this stage, the learned Counsel for the petitioners prayed for modification of the order of confiscation of 20% of the seized stock.

7. Taking into consideration the above submission made by the learned Counsel for the petitioners, the order of confiscation of 20% of the seized stock passed by the Joint Collector, SPSR Nellore and confirmed by the learned Principal Sessions Judge, Nellore, is modified to that of 10% of the seized stock. The remaining seized stock shall be returned to the petitioners. Rest of the judgment under revision shall remain.

8. With the above modification, the Criminal Revision Case is disposed of. Consequently, the miscellaneous petitions pending, if

any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 8.6.2016
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