

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.2331 OF 2014

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973 is preferred challenging the judgment, dated 26.8.2014, in Criminal Appeal No.154 of 2013 on the file of the Sessions Judge, Nizamabad whereunder and whereby, the learned Sessions Judge dismissed the appeal filed by the petitioner herein against the order, dated 12.11.2013, in Case No.CS6/1075/2013 passed by the Joint Collector, Nizamabad.

2. The brief facts, which lead to filing of this Revision Case, are as under:

On 14.9.2013, on receipt of credible information about illegal movement of wheat, the Civil Supply Officials i.e., Deputy Tahsildar (Enforcement) and others proceeded to the premises of M/s. Sri Rajarajeshwara Traders, Opp : Radhakrishna Theatre, Subhashnagar, Nizamabad at 12.00 noon. They found one lorry bearing No.AP-27-T-6779 containing PDS wheat packed in F.C.I. labelled gunny bags and the same wheat was being refilled in gunny/plastic bags and loaded in another lorry bearing No.AP-07-X-9277. One person by name Abdul Lateef was supervising the loading of wheat. When asked to produce way bills and other documents, he replied that at the request of Shakeel (petitioner herein), he is supervising the loading and he is not aware of procurement of wheat and requested to pardon him. The statements of Abdul Lateef and one Shaik Mohiuddin, driver of lorry bearing No.AP-07-X-9277, were recorded. The driver of lorry

bearing No.AP-27-T-6779 absconded. The stock of PDS wheat weighing 201.60 quintals valued Rs.1,41,120.00 and two lorries were seized in the presence of mediators and handed over to In-charge of MLS Point, Nizamabad for safe custody. The two lorries were handed over to IV Town Police Station, Nizamabad for safe custody.

The complainant has booked a case against the petitioner herein and three others for contravention of Clauses 16(vii), 17(c) and 18(b) of the A.P. State PDS Control Order, 2008 read with Section 5 of the Essential Commodities Act, 1955 and filed a report under Section 6-A of the Essential Commodities Act for necessary action.

The Joint Collector, Nizamabad issued interim orders for disposal of seized PDS wheat directing the District Manager, APSCSCL, Nizamabad to remit the sale proceeds into Civil Supplies head of account. The Joint Collector has issued notice under Section 6-B of the E.C. Act on 18.9.2013 directing the petitioner herein and three others to file written explanation as to why the seized stock should not be confiscated in favour of the Government.

The owners of the aforementioned lorries approached the Joint Collector and filed an application for return of their lorries and the same were returned to them on furnishing bank guarantees.

The Joint Collector found that the petitioner herein and three others were indulged in clandestine business of PDS wheat

and illegally diverting the same into black market and thus, they contravened Clauses 16(vii), 17(c) and 18(b) of the A.P. State PDS Control Order, 2008. Accordingly, *vide* order, dated 12.11.2013, in CS6/1075/2013, the Joint Collector ordered for confiscation of 100% of the seized stock in favour of Government and imposed penalty of Rs.5,000/- each on the owners of the aforementioned lorries. Challenging the same, respondent No.2 in Case No.CS6/1075/2013 preferred Criminal Appeal No.154 of 2013 on the file of the Sessions Judge at Nizamabad and the same was dismissed. Aggrieved thereby, he filed the present Criminal Revision Case.

3. Learned counsel for the petitioner submits that the order of the Joint Collector is without any proper appreciation of facts and evidence; that the Court below failed to consider that the wheat seized does not belong to PDS; that for purchase and sale of wheat, no license is required and the provisions of Clause 16(vii), 17(c) and 18(b) of the A.P. State PDS Control Order, 2008 are not applicable to the present case; that the Court below failed to consider that every dealer can sell empty F.C.I. gunny bags in open market and there are no restrictions to purchase the empty gunny bags of F.C.I. label and the Court below has failed to observe that there is no record to show that the wheat, which was seized, belongs to PDS and was diverted to the petitioner herein, and hence, he prays to allow this Criminal Revision Case.

4. Heard and perused the entire material available on record.

5. The record clearly reveals the fact that the petitioner was diverting the goods, which belong to the Public Distribution System. The order passed by the Joint Collector, which was confirmed in the appeal by the learned Sessions Judge, is in accordance with law. There is nothing to interfere with the said order. Further, the petitioner could not substantiate before the officer concerned by way of producing relevant receipts to hold that the said goods do not belong to Food Corporation of India. The learned Sessions Judge rightly passed the impugned judgment and hence, this Court is not inclined to interfere with the same and therefore, the Revision fails and is liable to be dismissed.

6. Accordingly, the Criminal Revision Case is dismissed confirming the order, dated 12.11.2013, in Case No.CS6/1075/2013 passed by the Joint Collector, Nizamabad, which was confirmed in the judgment, dated 26.8.2014, in Criminal Appeal No.154 of 2013 passed by the Sessions Judge, Nizamabad.

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

JUSTICE RAJA ELANGO

6.9.2016
AMD

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Date: 6.9.2016

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