

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CRIMINAL REVISION CASE No. 2257 of 2014

ORDER:

Assailing the judgment dated 18.07.2014 passed in Criminal Appeal No.23 of 2014 on the file of the Sessions Judge, Guntur, wherein the learned Sessions Judge modified the order of the Joint Collector by setting aside the order of modification of 10% of other stock seized or to return their value if already sold, the present Revision is filed under Sections 397 and 401 of the Criminal Procedure Code (for short "the Cr.P.C.").

The facts in issue are as under :

On receipt of credible information that a Mini lorry with a load of PDS rice was moving towards M/s.Balaji Rice Industries, Janapadu village, Piduguralla Mandal, the Inspector, Civil Supplies along with his staff rushed to Janapadu village and inspected the premises of M/s. Balaji Rice Mill Industries on 30.12.2012 at 3.00 p.m. At the time of inspection they found arrangements being made for unloading the bags available in the Mini lorry into the Rice Mill premises. Immediately, the inspecting officer enquired the driver of the vehicle, who revealed that as per the instructions of Bathula Thirupathaiah, proprietor of M/s. Balaji Rice Industries, Janapadu village, and Sri Bathula Anjaneyulu who is working as a Clerk they went to Chandrajupalem village of Bellamkonda Mandal on 29.12.2012 at about 10.00 p.m., loaded 60 bags of rice with FCI labels in their mini lorry and brought the same to the Mill during the early hours of 30.12.2012. He failed to produce way bills or bills for the load of rice stock. The clerk of the rice mill, who was present, was enquired wherein he stated that as per the instructions given by the proprietor of the Rice Mill, he engaged the lorry and sent it to Chandrajupalem village for bringing rice. When the Clerk was asked to produce food grain licence, stocks and sales register pertaining to the rice mill, he is alleged to have stated that those records are in the house of the Proprietor. The officials verified the mill premises, found about 1000 used FCI labelled gunny bags, 82 quintals of PDS rice, 165 quintals of semi damaged rice, 7.50 quintals of paddy and 6.00 quintals of paddy husk, 4.50 quintals of rice brawn. Thereafter a panchanama was prepared in the presence of mediators and the entire stock found in the Mill and the Mini lorry, valuing at Rs.5,15,750/- was seized and handedover to V.R.O., Janapadu village. Thereafter a complaint came to be filed

under Section 6-A of the Essential Commodities Act against the Rice Mill owner, the Clerk working in the Rice mill and the owner of the mini lorry. Notices under Section 6-B of the Act was issued to the petitioner and others to show-cause as to why the stocks and the lorry should not be confiscated to the State. Meanwhile, the District Collector passed an interim order to sell the seized stock in public auction as well as the seized lorry. Aggrieved by it, the petitioner filed W.P. No.5298 of 2013 before the Hon'ble High Court, wherein this Court was pleased to stay the auction. Pursuant to the show cause notice explanations were submitted and the District Collector after hearing all the parties passed an order imposing penalty of confiscation of the entire stock of PDS rice found stored in the mill and transported to the rice mill in the mini lorry, totalling to 82 quintals and 10% of the other seized stocks. A penalty of about 10% was also levied on the owner. Challenging the same, the petitioners filed Criminal Appeal No.23 of 2014 before the learned Sessions Judge, Guntur. After considering the entire material on record, the learned Sessions Judge allowed the Revision in part by setting aside the order of confiscation of 10% of other stocks. Not being satisfied with the order passed, the present Revision is filed.

The learned counsel for the petitioner mainly submits that there is no material on record to show that Rice which was seized or which was being transported is a PDS rice. He submits that no enquiry was conducted to find out as to whether the said rice is a PDS rice or not and no expert opinion was obtained to prove the same.

On the other hand, the learned Additional Public Prosecutor opposed the application contending that if really the said stock which is diverted is not PDS rice, nothing prevented the Mill owners from producing the way bills to substantiate the same. He further submits that the statement of the Clerk as well as driver amply establish that the stock found in the Lorry is a PDS rice.

The plea of the petitioner that no material has been gathered to show that the rice seized is PDS rice has to be rejected for the reason that a contrary plea was taken before the Court below. A reading of the material on record would show that an explanation was filed before the competent authority contending that PDS rice which is found in the lorry and also in the premises of the rice mill was damaged rice which he purchased in auction to be sold as poultry feed. The explanation shows that about 640 bags of PDS rice which was being seized by the Sub Inspector of Police, Nadendla in Crime No.107 of 2012 and 139 of 2012 got damaged as it was not properly stored and pursuant to the orders of Joint

Collector, Guntur, the Tahasildar, Nadendla took possession of those rice stocks from the mill and kept them in PACS, Ganapavaram. Thereafter, on further orders of the Joint Collector, the District Manager, APSCSC Limited, Guntur instructed the Tahasildar, Nadendla to dispose of the same by auction, which could be used as a poultry feed. It is the case of the appellant/petitioner herein that he purchased the same in the public auction for Rs.2,20,564/- and thus stocks were brought to the rice mill on 13.12.2012 under proper receipt issued by Tahasildar. It is his case before the lower authority that the said PDS rice is unfit for human consumption. From the defence taken before the trial court, it is clear that the petitioner herein is not disputing the seizure of the PDS rice both from the mini lorry and from the premises of the mill. Therefore, the argument which is now sought to be advanced that there was no proper enquiry or material to show that the rice seized was PDS rice, cannot be accepted.

Coming to the plea that the rice which is seized was placed for public auction, it is to be noted that during the search of the rice mill about 1000 empty bags of FCI labeled gunny bags were found in the Mill. Therefore, the plea of the appellant that he purchased only 640 bags of damaged PDS rice in public auction, cannot be accepted. The statements of the driver and also clerk of the petitioner show that the rice which is seized from the premises of the Mill and also from the Mini lorry, is not damaged PDS rice, but it was a normal PDS rice and the invoices furnished by the appellant show that there were number of corrections in the said documents, not only in the date column but they were not matching with the entries made in the "B" register. Hence, it cannot be said that what has been seized or found in the premises and in the lorry is rice unfit for human consumption. In the absence of any permission or licence, the mill owner could not have stored or acquired 82 quintals of PDS rice (30 quintals in mini lorry and 52 quintals found stored in the Mill). The said act being unlawful and contrary to the provisions of law, the Joint Collector as well as the Sessions Judge rightly ordered confiscation of the entire 82 quintals of PDS rice. Having regard to the findings referred to above, the order under challenge warrants no interference and accordingly the revision is liable to be dismissed.

Accordingly, the Criminal Revision Case is dismissed, confirming the order dated 18.07.2014 passed in Criminal Appeal No.23 of 2014 by the Sessions Judge, Guntur. As a sequel to it, miscellaneous petitions pending if any in this Criminal Revision Case, shall stand closed.

JUSTICE C.PRAVEEN KUMAR

Dt: 25.04.2016
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