

THE HONOURABLE SRI JUSTICE M.S.K.JAISWAL

Criminal Petition No.8510 of 2016

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ORDER:

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This Criminal Petition is filed under Section 482 of Code of Criminal Procedure (Cr.P.C) by the petitioner/accused No.1 seeking to call for the records relating to CrI.R.P.No.68 of 2014, dated 12-01-2016 on the file of the Court of Sessions Judge, Krishna Division, Machilipatnam and quash the same.

The case of the prosecution is that the petitioner/accused No.1 purchased rice meant for Public Distribution System from the beneficiaries at low prices and selling the same at higher prices. On 10-12-2012 when Qtls.130.00 Kgs. of rice purchased by the petitioner from different rice traders at Vijayawada and Gollapudi was being transported in a lorry bearing No. AP 37 9189, S.I. of Police, Gudivada II Town has intercepted the lorry and seized the lorry and rice in the presence of mediators. S.I. of Police, Gudivada II Town Police Station registered a case in Crime No.176 of 2012 of Gudivada II Town Police Station for the offence punishable under Section 6-A of Essential Commodities Act and under Section 420 of I.P.C. and for violation of Public Distribution Control Order and A.P. Scheduled Commodities Dealers (Licensing, Storage & Regulation) Order, 2008.

The Judicial First Class Magistrate, Gudivada, discharged the petitioner/accused No.1 on the ground that no sanction, which

was mandatory, was obtained from the District Collector for prosecuting under the provisions of the Essential Commodities Act. However, the learned Magistrate while discharging the petitioner/accused No.1 directed that the Collector to initiate proceedings under Section 6-A of the Essential Commodities Act.

Questioning the aforesaid direction, revision is preferred by the petitioner/accused No.1 and the learned Sessions Judge, Krishna Division, Machilipatnam, while dismissing the revision, held that such direction cannot be issued by the learned Magistrate. However, insofar as the property is concerned, the same is alleged to be P.D.S. rice and that cannot be returned to the petitioner merely because he was discharged on technical ground that there was no sanction from the District Collector.

Therefore, while the direction of the learned Magistrate to initiate proceedings under Section 6-A of Essential Commodities Act cannot be countenanced, that by itself cannot be a ground to release the seized stock in favour of the petitioner/accused No.1 without there being proper order from the Collector, who is the concerned authority.

In that view of the matter, the Criminal Petition is disposed of directing the concerned Police to see that the confiscated stock, which is said to be P.D.S. rice, be produced before the Collector for taking appropriate action in accordance with law. This should be complied with within two weeks from the date of receipt of a copy of the order. Consequently, the miscellaneous

petitions pending in this petition, if any, shall stand closed.

JUSTICE M.S.K.JAISWAL

27.06.2016

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