

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE No.3169 of 2016

ORDER:

This criminal revision case is filed under Sections 397 and 401 Cr.P.C., challenging the order dated 27.3.2015 in Criminal Appeal No.104 of 2014 on the file of the Court of the Principal Sessions Judge, Warangal, wherein and whereby the order dated 29.9.2014 passed by the Joint Collector, Warangal in E.C.A.C. No.64/2014, was modified confirming the seizure of stocks to the extent of 50% on the variation of the stock (Red Gram) seized instead of 25% of entire stock seized.

2. Heard the learned counsel for the petitioner and learned Public Prosecutor representing the State.

3. The petitioner is carrying on business in pulses in the name and style of M/s.Sri Sai Krishna Trading Company, H.No.4-378, Market Street, Kesamudram Village and Mandal, Warangal District, after obtaining necessary permission. While so on 15.4.2014 the Vigilance Officials visited the shop of the petitioner and conducted physical verification of the stock i.e., Red Gram (whole) with reference to the stock register. As per the stock register, the available stock is 190.65 quintals whereas the stock in physical possession of the petitioner is 230.40 quintals. Thus, the variation is 39.75 quintals. The Joint Collector issued notice to the petitioner calling for his explanation for variation of the stock. Being not satisfied with the explanation submitted by the petitioner, the Joint Collector initiated proceedings against the petitioner under Section 6A of the Essential Commodities Act by

framing three charges. After affording reasonable opportunity to both parties, the Joint Collector arrived at a conclusion that the petitioner indulged in black-marketing and ordered confiscation of 25% of the value of the seized stock i.e., Rs.8,06,400/-. Feeling aggrieved by the orders of the Joint Collector, the petitioner preferred Criminal Appeal No.104 of 2014. The learned Sessions Judge, after affording the reasonable opportunity of hearing to the petitioner as well as the respondent, dismissed the appeal while modifying the order of confiscation from 25% of entire stock seized to 50% of variation of the stock worth Rs.69,562.50 ps.

4. The predominant contention of learned counsel for the petitioner is that the Vigilance Officials visited the business premises of the petitioner at about 01.00 PM on 15.4.2014. He further submitted that due to ill-health, the accountant could not attend the duty and therefore there appears variation in the stock. It is the further case of the petitioner that he purchased forty (40) quintals of Red Gram from a ryot by name Rajula Guttaiah and the same was not considered by the Joint Collector as well as the appellate Court.

5. The petitioner has not adduced oral or documentary evidence, to substantiate his case that he purchased forty (40) quintals of Red Gram from Rajula Guttaiah. If really the petitioner had purchased 40 quintals of Red Gram from the ryot, nothing prevented him to produce the relevant document before the Joint Collector. It is not uncommon to take this type of pleas in order to overcome the adverse situation. In the absence of any evidence much less cogent and convincing evidence, much weight cannot be

attached to the stand taken by the petitioner. As per the provisions of the EC Act, it is the duty of the dealer to maintain the registers properly. If the variation of stock is within the permissible limit, the Court can ignore the variation. Admittedly, the petitioner failed to explain the reasons for variation of 39.75 quintals of Red Gram. The plea of the petitioner that the accountant not attended duty on the date of inspection is not supported by any evidence much less legally admissible evidence. As per the findings of the Joint Collector, the petitioner has not maintained true and correct accounts. The appellate court, after considering the material available on record, dismissed the appeal reducing the quantum of the stock (red gram) to be confiscated. The appellate court has not given any specific finding that the petitioner has involved in clandestine business. It is not the case of the respondent that the petitioner indulged in similar type of offences previously.

6. Having regard to the facts and circumstances of the case, the criminal revision case is partly allowed, reducing order of confiscation from 50% value of the variation quantity of 39.75 quintals of red gram to 25% of the value of varied quantity of 39.75 quintals of red gram. Miscellaneous petitions if any pending in this CrI.RC shall stand closed.

T.SUNIL CHOWDARY, J

December 29, 2016.

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