

THE HON'BLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.1023 OF 2016

ORDER:

This Criminal Revision Case is filed against judgment, dated 07.01.2016, passed in CrI.A. No.282 of 2011, by the Principal Sessions Judge, Nellore, whereby the learned Sessions Judge dismissed the appeal by confirming the order of the Joint Collector, SPSR Nellore District passed in Rc.B.No.463/2009, dated 12.09.2011.

The brief facts of the case are that the 2nd respondent is the owner of the lorry and the 1st respondent is the owner of the stock i.e. rice, contained in the said lorry. The lorry of the 1st respondent along with the load of rice was seized by the Deputy Superintendent of Police, Nellore (Urban), while he, along with his staff, was on patrolling duty, since the rice is transported in the said lorry without there being any valid documents. Thereafter, the lorry along with stock has been handed over to the District Supply Officer and a case for the offence under Section 6-A of the Essential Commodities Act was registered. Since nobody claimed the stock as well as the lorry, the Joint Collector issued order of confiscation of the seized stock i.e. 345 bags of Raw Common Rice measuring 25.364 Mts., worth Rs.4,10,144/- to the Government while directing to retain the lorry with the Station House Officer, V Town Police Station, Nellore, for safe custody. Thereafter, the petitioners filed a petition through their counsel requesting to release the stock to the 1st petitioner on his furnishing Bank guarantee to a tune of 10% of the value of the seized stock and also to release the lorry to the 2nd petitioner on his furnishing a personal bond. The said application was rejected on the ground that there are no merits in the said application since the final orders were already passed and that the petition was filed six days after seizure of the stock. Aggrieved by the said order, the petitioners approached this Court by way of filing

WP No.18384 of 2009 and this Court was pleased to grant interim custody of the stock and lorry to the petitioners. Thereafter, this Court disposed of the said writ petition directing the Joint Collector to issue notice to the petitioners as contemplated under Section 6-B of the E.C. Act and pass appropriate orders, after giving an opportunity of hearing to the petitioners.

The Joint Collector having found prima facie case against the petitioners, issued a show cause notice to them, to which they submitted a written explanation. After considering the explanation submitted by the petitioners and also after hearing the arguments of the petitioners, the Joint Collector ordered for confiscation of 20% of the seized stock i.e. 5.130 of Raw Common Rice worth Rs.83,000/- to the Government and imposed a penalty of Rs.20,000/- on the 2nd respondent, who is the owner of the lorry. Challenging the same, the petitioners filed Crl.A. No.282 of 2011 before the Principal Sessions Judge, Nellore. The learned Sessions Judge, dismissed the appeal vide order impugned. Aggrieved by the same, the present revision is filed.

Heard and perused the material available on record.

Learned counsel for the petitioners submitted that the trial Court without taking into consideration the submissions of the petitioners, confiscated 20% of the seized stock, the value of which is Rs.83,000/-, and also imposed a penalty of Rs.20,000/- on the lorry on the ground that the rice was being transported from Nellore without there being any release certificate and any valid documents. It is also contended that the learned Sessions Judge also erred in confirming the said order. He further submitted that said stock was covered by bills and way bills and other valid documents.

After perusing the entire material available on record and after hearing the submissions made by the learned counsel for petitioners,

this Court is of the view that the confiscation of the stock and the fine amount imposed on the owner of the vehicle, as ordered by the Joint Collector, which was confirmed by the appellate Court, can be reduced.

Accordingly, the order, dated 12.09.2011, passed in Rc.B.463/2009 by the Joint Collector, SPSR Nellore District, which was confirmed by the Principal Sessions Judge, Nellore, in Crl.A. No.282 of 2011, is hereby modified and the confiscation of Rs.83,000/- towards the value of 20% of the seized stock, is reduced to Rs.50,000/- (Rupees fifty thousand only), and the penalty of Rs.20,000/- imposed on the owner of the vehicle i.e. the 2nd petitioner is reduced to Rs.10,000/- (Rupees ten thousand only).

With the above modification, the Criminal Revision Case is disposed of. Miscellaneous petitions, pending if any, shall stand closed.

RAJA ELANGO, J

July 15, 2016.
KTL