

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2017

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THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Cr1.O.P No.14659 of 2011

and

M.P.No.1 of 2011

S.Appeal

.. Petitioner

vs.

The State of Tamilnadu, rep. by
Inspector of Police,
Civil Supplies Criminal Investigation Wing
(CSCID), Trichy.

.. Respondent

Prayer: Criminal Original Petitions filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the Charge Sheet in C.C.No.19 of 2009 on the file of the learned Judicial Magistrate, Perambalur and quash the same.

For Petitioner : Mr.R.Selvakumar

For Respondent : Mr.B.Ramesh Babu
Government Advocate (Criminal Side)

JUDGMENT

The petitioner herein is arrayed as 3rd accused in FIR in Crime No.1075 of 2008 dated 24.10.2008 for the offences under Sections 6(4) of the Tamil Nadu Scheduled Articles (Regulation of Distribution through Family Cards) order, 1982 read with 7(1) a(ii) of Essential Commodities Act, 1955 by the respondent police.

2.The case of the prosecution is that on 24.10.2008 the respondent police party on reliable information conducted search at Kamala Devi Rice Mill at Echangadu which belongs to the 2nd accused Sakthivel. During the said raid, the respondent police seized 97 PDS rice bags and 80 bags of rice flour which was stocked without any record and the said rice bags are meant for public distribution under Public Distribution Scheme (PDS).

3.On investigation by the respondent police, the said rice bags were brought by 1st accused and the same was given by the 3rd accused/petitioner herein who is working as Road Inspector at Sendurai Panchayat Union.

4.The accused 1 to 3 conspired each other and in order to get profit, the rice meant for Public Distribution by the Civil Supply Corporation was sold in the black market and thereby they have committed an offence punishable under Sections 6(4) of the Tamil Nadu Scheduled Articles (Regulation of Distribution through Family Cards) order, 1982 read with 7(1)a(ii) of Essential Commodities Act, 1955. Hence FIR was registered against the accused by the respondent police in Crime No.1075 of 2008 on 24.10.2008 for the above said offences.

5.After completing investigation, the respondent police filed final report vide Charge Sheet No.9 of 2008 on 25.11.2008 before the Learned Judicial Magistrate, Perambalur and the same was taken on file in C.C.No.19 of 2009. Aggrieved over that same the petitioner herein/A3 has came up with this CrI.O.P to quash the same.

6.I heard Mr.R.Selvakumar, learned counsel appearing for the petitioner and Mr.B.Ramesh Babu, learned Government Advocate (Criminal Side) appearing for the respondent.

7.It is the contention of the learned counsel for the petitioner/A3 that the allegations made in the charge sheet does not meet out the ingredients meant for the offence under Section 6(4) of Tamil Nadu Scheduled Articles (Regulation of Distribution through Family Cards) order 1982.

8.In this context, the learned counsel for the petitioner has referred the above Section and it is necessary to extract Section 6(4) of the Tamil Nadu Scheduled Articles (Regulation of Distribution through Family Cards) order 1982 hereunder:

6. Supply of Scheduled Commodities:-

1.
2.
3.

4.No person shall purchase any Scheduled commodity obtained on a family card.

9.A reading of the above provision would clearly show that if any person has purchased scheduled commodity which was obtained on family card, then the above said provision will be attracted.

10.Here, the charge leveled against the petitioner has not attracted the above said Section, since the petitioner herein has not purchased rice bags from the family card holders. It could be seen from the report of the enquiry officer in the departmental proceedings that the petitioner has only asked the 1st accused to take the rice bags for distribution of beneficiaries and while taking the same by A2, it was seized by the respondent police and no opportunity was given to the petitioner to explain the same at the time of arrest. The said contention of the petitioner was accepted by the enquiry officer and the petitioner herein was relieved from the said charge. But the respondent police have booked the petitioner herein/A3 for the very same charge under the said Section. Prima facie there is no case is made out against the petitioner herein to attract the said Section. Hence the charge leveled against the petitioner under Section 6(4) of the Tamil Nadu Scheduled Articles (Regulation of Distribution through Family Cards) order, 1982 cannot stand for the reason stated supra.

11.The other submission of the learned counsel for the petitioner is also having force to the extent that the complainant cannot be the investigation officer. In the present case, the investigation officer and the complainant are one and the same by name K.Anandakumar which is revealed from the FIR and charge sheet. On that ground also the charge sheet is liable to be quashed. It is a settled proposition of law that no one can be a Judge to decide his own case. If both are same, then there cannot be a fair investigation.

12.This Court has looked into the other contentions of the learned counsel for the petitioner that the charges leveled in the charge sheet have also been testified in the departmental proceeding against the petitioner herein is not held liable for the charges and hold that the charges against the petitioner are not proved. Even though the finding rendered in the departmental proceedings is not a criteria to decide the quash petition, but the same is also having finding force, since the charge leveled in the criminal case and the charge in the departmental proceedings are one and the same. Hence, in the considered opinion of this Court, the said principle can be accepted as the finding rendered in the departmental proceedings is also one of the factor to decide the criminal case.

13. So appraisal of the overall circumstances of the case would warrant the intervention of this Court, as the charges do not satisfy the ingredients of the offence under Sections 6(4) of the Tamil Nadu Scheduled Articles (Regulation of Distribution through Family Cards) order, 1982 read with 7 (1) a (ii) of Essential Commodities Act, 1955 Food Adulteration Act.

14. Therefore, in the considered opinion of this Court and in view of the foregoing discussion and in view of the facts and circumstances of the present case, the Criminal Original Petition filed by the petitioner is allowed and the proceedings in C.C.No.19 of 2009 on the file of the learned Judicial Magistrate, Perambalur, is hereby quashed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.The Judicial Magistrate, Perambalur.

2.The Chief Judicial Magistrate,
Perambalur.

3.Inspector of Police,
Civil Supplies Criminal Investigation Wing
(CSCID), Trichy.

4.The Public Prosecutor,
High Court, Madras.

5.The Superintendent of police,
Perambalur.

+1cc to Mr.R.Selvakumar, Advocate in sr.no.86966

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NR 08/12/2017