

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.04.2017
CORAM
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN
Crl.O.P No.20001 of 2010
and
M.P.Nos.1 and 2 of 2010

1.V.Gnanamoorthy
2.S.Rajendran
3.R.Palani

... Petitioners

vs.

State by
The Inspector of Police,
Civil Supplies CID, Cuddalore,
Cuddalore District.
(Crime No.102/2009)

... Respondent

Prayer: Criminal Original Petitions filed under Section 482 of Cr.P.C., to call for records in C.C.No.752 of 2009 on the file of the Judicial Magistrate-I, Villupuram, Villupuram District and quash the same.

For Petitioners : Mr.C.Prakasam

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

JUDGMENT

This Criminal Original Petition is filed to quash C.C.No.752 of 2009 pending file of the Judicial Magistrate-I, Villupuram. The petitioners herein are accused in Crime No.102 of 2009 for the offence under Section 6(2) (3) and (4) of TNSC (RDCS) order, 1982 r/w 7(i) (a) (ii) of EC Act 1955 on the file of the respondent police.

2.The case of the prosecution is that on 10.02.2009 at about 11 A.M when the Taluk Supply Officer of Vanur Taluk Inspected Thiruchitrampalam Fair Price Shop, No.2 and he found that 100 rice bag meant for public distribution scheme remain not mentioned in the stock register.

3.Amongst 100 rice bags stated above, 40 rice bags belonged to Nagarkulam Co-operative Society, 34 rice bags belonged to Kothurai Co-operative Society and 26 rice bags belonged to Perambhai Co-operative. The accused have stocked the above rice bags without having any valid documents and without following the government rules & regulations with a

view to sell the same in the black market for higher price and thereby caused loss to the government to the sum of Rs.66,600/-. Hence all the 3 accused have committed the offence punishable under Section 6(2) (3) and (4) of TNSC (RDCS) order 1982 r/w 7(i) (a) (ii) of EC Act 1955. Thereupon the respondent police had registered a case in Crime No.102 of 2009 against the accused/petitioners herein on receipt of the complaint from the Taluk Supply Officer of Vanur Taluk.

4.The respondent police after completing the investigation filed charge sheet against the petitioners before the Learned Judicial Magistrate-I, Villupuram and the same was taken on file in C.C.No.752 of 2009. The petitioners herein are before this Court to quash the above said final report.

5.It is the contention of the petitioners that on 10.02.2009 the Taluk Supply Officer of Vanur inspected Thiruchitrambalam Fair Price Shop-II and found that there was rice stock in the said fair price shop and to that effect he made entry in the stock register. But the District Supply Officer having seized 100 bags of rice somewhere, but registered a case against the petitioners herein as if the rice bags was seized from the above said fair price shop.

6.Though the Taluk Supply Officer claiming to have seized 100 bags of rice each bag weighing 50 kgs from the subject shop, but as per the receipt issued by the Superintendent of the Tamil Nadu Civil Supplies Corporation Godown it is denoted as 114 PDS.

7.From the above it is made clear that the Taluk Supply Officer has seized the said rice bags from some third party, but to escape from the clutches of law, Taluk Supply Officer falsely implicated the petitioners in the above said crime. Hence the offences under Section 6(2) (3) and (4) of TNSC (RDCS) order 1982 r/w 7(i) (a) (ii) of EC Act 1955 are not at all attracted against the petitioners herein. Therefore they prayed to quash the charge laid against them.

8.This Court has carefully considered the rival submission on either side and perused the documents. On perusal of the entire records, this Court is of the considered view that there is no material evidence available against the petitioners herein, in respect of the allegation of illegal stock of PDS rice bags for the purpose of selling in the black market. The petitioners herein have substantiated their case from 161(3) Cr.P.C. statement of Superintendent of Tamil Nadu Civil Supply Corporation Godown who in his 161 (3) Cr.P.C. statement has categorically stated that on 10.02.2009 when he was on duty, the Taluk Supply Officer of Vanur has produced 95

rice bags measuring 4629 kgs and 19 rice bags measuring 919 kgs. On receiving the same he issued temporary acknowledgement receipt wide receipt No.S1/646/09 dated 10.02.2009, whereas the perusal of Charge Sheet it project that Taluk Supply Officer of Vanur has seized 100 bags of PDS rice from Tiruchitrabalam Fair Price Shop No.II. There are major discrepancies with regard to seizure of PDS rice bags in the 161 (3) statement of Elaimuthu Superintendant of Tamil Nadu Civil Supply Corporation, Vanur and the charge sheet of the respondent police. There is no answer for the above said discrepancies by the respondent herein.

9.Yet another question involved in this case is as to whether the prosecution has established the ingredient to attract the contravention of the clause 6(4) of TNSC (RDCS) order 1982.

10.For better appreciation the relevant provision is extracted hereunder:

6. Supply of Scheduled Commodities.-

1).....

2).....

3).....

4) No person shall purchase any scheduled commodity on a family card.

11.A reading of the above said provision makes clear that in order to attract the said provision, it is the duty of the respondent to establish that the petitioners herein have purchased or procured seized rice bags on the basis of family cards. As for as the present case on hand is concerned, it is not the case of the prosecution that the petitioners have purchased on procured the rice bags on the basis of family cards which was seized from the petitioners. Therefore, absolutely there is no material of evidence available on record to attract the above said provision of law.

12.In this regard the learned counsel for the petitioners would rely on two unreported judgments of this Court made in CrI.R.C.No.967 of 2010 dated 22.09.2016 in the case of P.R.Murugan -Vs- State by the DRO and another and the unreported judgment made in CrI.R.C.No.1247 of 2010 dated 23.02.2011 in the case of State by the DRO -Vs-Srimathi Yasoda and Another.

13.The principle laid down by this Court in the above mentioned unreported judgments are squarely applicable to the

facts of the present case on hand. In view of the discussion made above, this Court finds that the charge sheet laid against the petitioners herein in C.C.No.752 of 2009 is liable to be quashed as not maintainable under clause 6(4) of TNSC (RDCS) order 1982.

14. Accordingly, the Criminal Original Petition is allowed and the proceedings in C.C.No.752 of 2009 on the file of the Judicial Magistrate-I, Villupuram is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

- 1 The Judicial Magistrate No.I, Villupuram.
- 2 The Inspector of Police,
Civil Supplies CID, Cuddalore,
Cuddalore District.
- 3 The Public Prosecutor,
High Court, Madras.

+1cc to Mr.C.Prakasam, Advocate SR.No.23740

CrI.O.P No.20001 of 2010
and
M.P.Nos.1 and 2 of 2010

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