

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.06.2017

PRONOUNCED ON : 29.06.2017

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRL.R.C.No.195 of 2015

State rep. By

The Inspector of Police,
Civil Supplies C.I.D.,
Erode.

(Crime No.149/2013)

... Petitioner

Vs.

Shanmugam

... Respondent

Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure Code to set aside the order passed by the II Additional Sessions Judge, Erode in Crl.A.No.42/2014 dated 02.07.2015.

For Petitioner : Mr.R.Ravichandran,
Government Advocate (Crl.Side)

For respondent : Mr.Yusuf, Legal Aid Counsel

O R D E R

Challenging the order passed by the II Additional Sessions Judge, Erode/Appellate Authority in Crl.A.No.42/2014 dated 02.07.2015 under Section 6C of the Essential Commodities Act 1955, allowing the appeal filed by the respondent, the present revision has been filed.

2. The case of the petitioner in brief is as follows:-

While the civil supplies CID police engaged in an inspection, found a vehicle bearing registration No.TN 33 AV 5234, in front of a Fair Price Shop near Tamayanthi Baby Sait Marriage Hall, at Erode Taluk, with four tin barells containing 800 liters of kerosene, meant for public distribution system in the ration shop, and the vehicle did not possess any voucher or permission for transporting the kerosene meant for public

distribution system. Hence, the respondent police seized the vehicle and also registered a case in Crime No.149 of 2013. Thereafter, a proceedings under Section 6A of the Essential Commodities Act 1955 has been initiated for confiscation of the kerosene for violation under clause 3(1) and 17(i) of the Tamil Nadu Kerosene Control order. A notice under Section 6B of the Essential Commodities Act (herein after called "Act") has been issued to the respondent for confiscation of the kerosene and also the above vehicle.

3. At that time, a two wheeler bearing registration No.TN 36 S 9256, owned by the respondent was standing near the said lorry carrying the PDS kerosene, was also seized. Subsequently a notice under Section 6B of the Act was also issued, and after completing enquiry, the District Revenue Officer imposed a fine of Rs.24,000/-. Challenging the same, he filed an appeal in C.A.No.42 of 2014, before the II Additional District Court/Appellate authority, Erode and the appellate authority allowed the appeal and set aside the order passed by the District Revenue Officer. Challenging the same, the present revision has been filed.

4. Even though notice was served on the respondent and his name was also printed in the cause list, none appeared for him. Hence, Mr. Yusuf, Advocate, was appointed as legal aid counsel for the respondent.

5. Heard Mr.R. Ravichandran, learned Government Advocate (Crl. Side), appearing for the petitioner and Mr. Yusuf, learned Legal Aid counsel appearing for the respondent and perused the materials available on records carefully.

6. So far as the respondent's two wheeler is concerned, the one and only allegation is that the respondent was standing along with the two wheeler near the lorry, which carrying PDS kerosene, and apart from that, absolutely there is no material available on record to show that he was transporting the PDS kerosene, and admittedly, PDS kerosene was in the lorry. In absence of any such material connecting the respondent with the transportation of PDS kerosene, the respondent cannot be held that he has violated or contravened any order made under Section 3 of the Act. Hence, the confiscation is totally illegal and hence, it is liable to be set aside. Even though the reason stated by the appellate authority that the confiscation cannot be made unless the petitioner convicted is not legally correct, from the material available on record, I am satisfied that no case has been made out against the respondent for confiscation. Hence, there is no merit in the revision and is liable to be dismissed.

7. Accordingly, the Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mrp

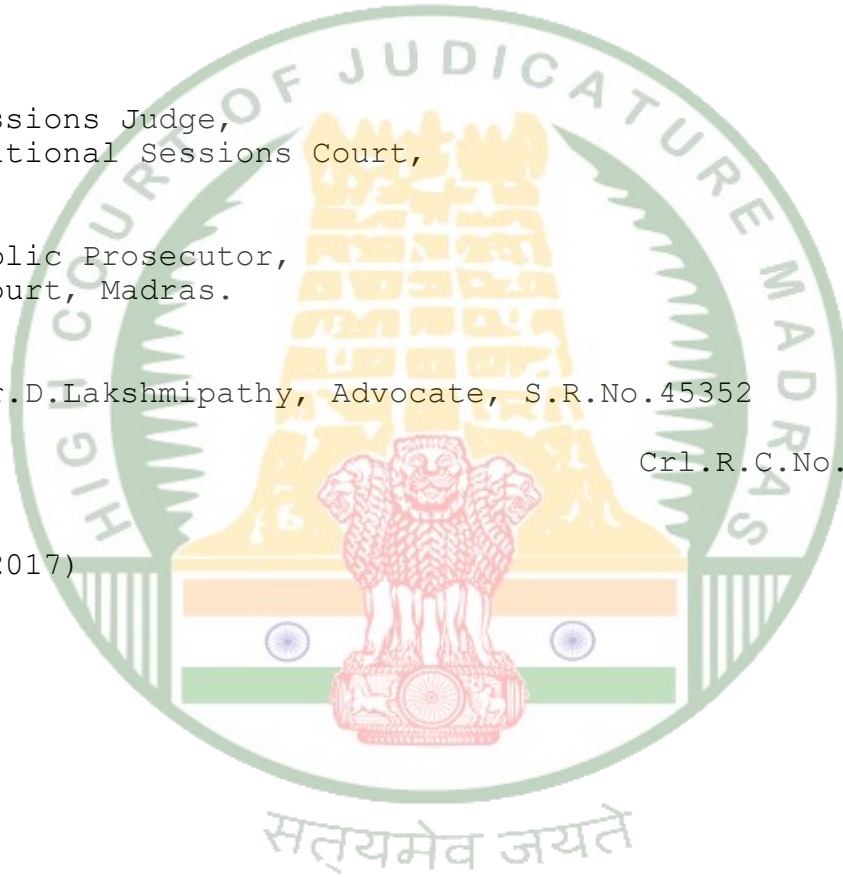
To

1. The Sessions Judge,
II Additional Sessions Court,
Erode.
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.D.Lakshmipathy, Advocate, S.R.No.45352

Cr1.R.C.No.195 of 2016

SKS (CO)
CA(18/07/2017)



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