IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2017

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.R.C.No.644 of 2016

Malayalasamy .. Petitioner/Appellant

Vs

State rep. By
1. The District Revenue Officer,
   Coimbatore,
   Coimbatore District.

2. The Special Tahsildar,
   Pollachi,
   Coimbatore District.

.. Respondents

Criminal Revision is filed under Section 397 and 401 Cr.P.C., seeking to call for the entire records in so far it relates to the order passed by the III Additional District and Sessions Judge, Coimbatore made in C.A.No.122 of 2013, dated 08.12.2015 whereby confirming the order passed by the District Revenue Officer, Coimbatore in his proceedings Na.Ka.No.8666/2005/Kee-3, dated 28.05.2013 and set aside the same.

For Appellant : Mr.C.Prakasam

For Respondent : Mr.R.Ravichandran
Govt. Advocate (Crl.Side)

ORDER

This Criminal Revision case has been preferred against the order passed under Section 6-C of the Essential Commodities Act, imposing a fine of Rs.4,50,000/- and the seizure of the lorry.

2. Revision petitioner is the owner of a lorry bearing Registration No.TN-25-A-0457. The case of the first respondent was that on 15.11.2005 while inspecting the vehicles, it was found that the petitioner's lorry was carrying 202 bags containing 7600 Kgs. of raw rice and 2285 Kgs. of boiled rice and 200 kg. of sugar which were meant for Public Distribution System. Then, the respondent seized the vehicle and sent the samples of the seized materials to the Tamil Nadu Civil Supplies Corporation for analysis and they have confirmed that the goods seized from the lorry is meant for Public Distribution System. Thereafter, proceedings had been initiated under Section 6A of the Essential Commodities Act, 1955, and a show cause notice was issued to the petitioner. In the enquiry, the petitioner contended that the lorry in which the alleged PDS rice bags carried was from the Tamil Nadu Civil Supplies Corporation godown to one Fair Price shop in Kottur. On the way, the lorry was stopped due to brake failure and after getting the lorry repaired, while they were proceeding towards the ration shop, the lorry was seized by the respondent. After obtaining reply from the petitioner, the District Revenue Officer, Coimbatore considering the materials available on imposed a fine of Rs.4,50,000/- to the petitioner. Challenging that order, the petitioner filed an appeal under Section 6C of the Essential Commodities Act before the III Additional District and Sessions Judge, Coimbatore and the Appellate Court confirming the order passed by the District Revenue Officer, dismissed the appeal. Aggrieved over the same, the present revision has been filed.

3. Learned counsel appearing for the petitioner contended that the lorry was not engaged in illegal transportation of PDS rice but, the lorry was carrying the PDS rice from the Tamil Nadu Civil Supplies Corporation godown to the nearby fair price shop. The lorry was only engaged by the employees of Kottur Malayadipattinam Primary Agricultural Co-operative Bank for supply of goods to their fair price shops. Since the lorry is being engaged by the Co-operative society, for supply of PDS rice to the fair price shops there is no illegal transportation of PDS rice and hence, the order passed by the respondent is illegal.

4. Per contra, learned counsel for the respondent submitted that during inspection, the authorities verified the trip sheet wherein, it has been mentioned that the goods were transported to Vanamadai (Kerala) from Valavaadi and the driver of the lorry was also in possession of Sales Tax declaration for the that trip. It is the further contention of the respondent that the said sales bill was issued by one Ambika Modern Rice Mill wherein, it had been stated that it was transported to one Balaji Traders, Palacode, Kerala State. The authorities also

found that the declaration form was in the name of Sri Balaji Traders at Vanamadai in Kerala State. Apart from that the respondent did not produce any material to show that the lorry was engaged by the Co-operative Society for transportation of PDS rice and sugar to the fair price shops.

5. I have considered the rival submissions.

6. Both the authorities has concurrently held that the petitioner did not produce any material to show that the lorry was carrying PDS rice from the Tamil Nadu Civil Supplies Corporation godown to be disbursed to the fair price shops. Apart from that, the documents seized from the lorry would clearly show that the lorry was only carrying the rice from Tamil Nadu Civil Supplies Corporation godown to Kerala and after seizure, the authorities obtained a certificate from the authorised laboratory that the rice transported in the seized lorry is only PDS rice.

7. In the above circumstances, considering the materials available on record and after perusal of the entire evidence, both the court below have come to the conclusion that petitioner only illegally transported PDS material hence, confiscated it and imposed a fine of Rs.4,50,000/- which in the considered opinion of this court is not perverse or illegal.

8. At this stage, learned counsel appearing for the petitioner would submit that the fine amount imposed on the lorry is more than the market price of the commodity seized and sought for modification of the fine amount.

9. Considering the above submissions made, the fine amount imposed by the respondent is modified from Rs.4,50,000/- to Rs.2,25,000/-. With the above modification, this Criminal Revision Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To,

1. The III Additional District
   and Sessions Judge, Coimbatore.

2. The District Revenue Officer,
   Coimbatore, Coimbatore District.

3. The Special Tahsildar,
   Pollachi, Coimbatore District.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.16768

Crl.R.C.No.644 of 2016

KS(CO)
CS/05/06/17