

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2017

CORAM :

THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl. A. No. 643 of 2004

Erode Market Committee

Rep. By its Superintendent of Market .. Appellant

/Vs/

Sai Poultry Farm

Rep. By its Partners

1. R.Chinnappagrounder

2. Dr.C.K.Samy

.. Respondents

Criminal Appeal filed under Section 378 of the Code of Criminal Procedure as against the Order dated 27.02.2004 passed by the learned Principal Sessions Judge, Erode in Crl.A.No. 207 of 2003 as against the order of conviction dated 22.10.2003 passed in STC.No.204 of 2003 on the file of the learned Judicial Magistrate-III, Erode.

For Appellant : M/s.S. Saravanan

For Respondents : No appearance.

JUDGMENT

There was no representation on the side of the respondents, eventhough notice was served on them.

2. In brief, the facts of the case of the complainant are as follows :-

The appellant Erode Market Committee is represented by its Superintendent of Market, Chittode. Originally, a complaint preferred by the present appellant against M/s. Sai Poultry Farm, Milk Dairy, Vasavi College Post, Chittode represented by its partners are (1).Tr.R.Chinnappagounder S/o.Ramagounder (2).Dr.C.K.Samy S/o.R.Chinnappa Gounder was that the latter the licensee under the provisions of Section 8(1) of Tamil Nadu Agricultural Produce Marketing Act 1987 in respect of Maize, Cholan and Kambu for the period from 01.04.2002 to 31.03.2005 had failed to submit the periodical returns for the period from 01.06.2002 to 31.07.2002 as required by Rule 32(1) of Tamil Nadu Agricultural Produce Marketing Regulation Rules 1991 which is punishable U/s 48(1)(b)(f) of Tamil Nadu Agricultural Produce Marketing (Regulation) Act 1987. The trial Court in STC No.204 of 2003 held that the respondents had failed to file the periodical returns as mandated under Rule 32 of Tamil Nadu Agricultural Produce Marketing Regulations Act 1987 and therefore is

liable to be penalised as per Section 48(1)(b) of Tamil Nadu Agricultural Produce Marketing (Regulation) Act 1987.

3. The learned Judicial Magistrate-III, Erode had categorically concluded that the prosecution had proved the guilt of the accused beyond reasonable doubt and thereby convicted and sentenced the accused to pay a fine of Rs.1000/- (Rupees Thousand Only) and in default to pay the fine amount to undergo Simple Imprisonment for a period of One week. The accused has also been directed to file the returns for the period from 01.06.2002 to 30.07.2002 within a period of one month from the date of the Judgment.

4. The respondent in the trial Court had contended that there were many infirmities in the case of the prosecution including the aspect that Sooriyampalayam Town does not come under the purview of Erode Marketing Committee and also that the sanction for prosecution did not mention the names of the partners or the address of M/s.Sai Poultry Firm. These aspects highlighted by the respondents/accused, were the grounds of appeal in Appellate Court i.e., Court of Principal Sessions Judge, Erode in CrI.A.No.207 of 2003. The learned Principal Sessions Judge, Erode harped on the issue as to

whether 'Sooriyapalayam' falls within the notified area or not. He has

discussed elaborately, Ex.A.5, which is copy of gazette notification and clarified on two aspects of the gazette notification. The first one pertains to the fact that Chitthode was mentioned as one of the notified areas without mentioning whether it would cover the area of 10 kms around it due to which the inclusion or otherwise of Sooriyapalayam was questionable. Secondly, the learned Principal Sessions Judge relied on the oral evidence of the present appellant (market committee) who had also deposed that the Gazette notification did not mention, whether it was Chitthode Town or Panchayat and also there is no mention about the 10km radius from Chitthode. The Appellate Court had thus concluded that the prosecution had failed to prove the guilt of the accused and gave the benefit of doubt in favour of the accused, thereby setting aside the order of conviction and sentence of the trial Court.

5. The present appeal is consequent upon the Appellate Court's Order. A bare reading of both the orders would reveal that the trial Court passed this decision on the fact that the respondents herein had a valid license (Ex.P.1) under the Provisions of Section 8(1) of the Tamil Nadu Agricultural Produce Marketing (Regulation) Act 1987 read with Rule 25 of Tamil Nadu Agricultural Produce Marketing 1991 for the period from 01.04.2002 to 31.03.2005. The very fact that, he was holding a license issued by the Periyar Marketing Committee

mentioning the Sai Poultry Farm along with the partners (1). Tr.R.Chinnappa Gounder S/o.Ramana Gounder (2). Dr.C.K.Samy S/o.R.Chinnappa Gounder clearly goes to prove that Sooriyampalayam was within the jurisdiction of the Periyar market committee subsequently renamed as Erode market committee. The learned Principal Sessions Judge of Erode has not discussed on the other documentary evidence produced by the present appellant and merely relied on the recitals of the gazette notification regarding the coverage area. As per the available records, license (Ex.P.1) was issued by Periyar market committee (which was renamed as Erode market committee) by the Government of Tamilnadu vide its G.O.Ms.317 dated 23.09.2002 in the year 2002 and therefore in my opinion merely because it is not mentioned in the said Government gazette (Ex.P.5) as to whether it is Chitthode Town or Panchayat cannot absolve the respondent/accused of his act of violation of Rule 32 of Tamilnadu Agricultural Produce Marketing (Regulation) Rules 1991. The respondent/accused being a licence holder issued by the Erode Marketing Committee ought to have filed the periodical returns which are mandatory and failure to do so definitely was proved beyond doubt by the appellant/complainant.

6. The learned Judicial Magistrate-III, Erode has rightly

<http://www.judis.nic.in> held that the accused are guilty of offences of which they are charged.

R. HEMALATHA, J.

Ksa

Therefore, the Judgment of the learned Judicial Magistrate-III, Erode is restored. The learned Judicial Magistrate-III, Erode is directed to take steps against the accused in accordance with law within three weeks from the date of receipt of the copy of this Order.

7. In fine, (i) Criminal Appeal No.643 of 2004 is allowed.

(ii). The Judgment of First Appellate Court in C.A.No.207 of 2003 is set aside.

(iii). The conviction and sentence passed by the learned Judicial Magistrate-III, Erode is confirmed.

06.12.2017

Speaking/Non speaking order

Index : Yes/No

Internet : Yes/No

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To

1. The Judicial Magistrate-III, Erode.
2. The Principal District Judge, Erode.
3. The Public Prosecutor, Madras High Court, Chennai.