

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL REVISION CASE No.831 of 2016

ORDER :

The revision petitioner claims to be the owner-cum-driver of TATA ACE Van bearing No.AP 31TU 0535. The said vehicle was seized along with 1,350 Kgs of rice while transporting the same without relevant documents in violation of Section 2K(4) of the A.P. Scheduled Commodities Dealers (L.R. & S) Order, 2008 and also in contravention of Clause 17(a) of APPDS (Control) Order, 2008, saying that the said rice is PDS rice and for contravention, the same is punishable for the offence under Section 7 of the Essential Commodities Act, 1955 (for brevity "the Act") and also prone to action for confiscation under Section 6A of the Act and the learned Joint Collector, Visakhapatnam District, by proceedings in C.C.No.21/2015-CSR.5, dated 23.07.2015, ordered for confiscation of the entire seized stock of 13.50 quintals of the said rice and also the van referred supra in favour of the Government. Impugning the said order, the revision petitioner having been unsuccessful in the appeal filed before the learned Principal Sessions Judge, Visakhapatnam, who confirmed the order of the learned Joint Collector, by judgment dated 01.02.2016 in CrI.A.No.40 of 2015, filed the present Criminal Revision Case.

2. Heard learned counsel for the revision petitioner vis-à-vis the learned Public Prosecutor representing the respondents, including the Joint Collector, Visakhapatnam; Deputy Tahsildar (CS), Bheemunipatnam, Visakhapatnam District; and the State and perused the impugned orders.

3. The confiscation of the aforesaid vehicle is unsustainable and quiet onerous, but for imposition of any penalty, that too, when it is the only source of livelihood of the petitioner, so also from the expression of the Apex Court in KAILASH PRASAD YADAV v. STATE OF JHARKHAND¹.

4. Having regard to the above, the aforesaid confiscation order is set aside by imposing a penalty of Rs.15,000/- (Rupees fifteen thousand only) on the petitioner payable before the learned Joint Collector, Visakhapatnam, for release of the vehicle i.e., TATA ACE Van bearing No.AP 31TU 0535 on production of original C-Book of the said vehicle.

5. Accordingly, the present Criminal Revision Case is allowed in part.

6. As a sequel, miscellaneous petitions pending, if any, in this revision shall stand closed.

Dr. JUSTICE B. SIVA SANKARA RAO

07.02.2017
Msr

¹ (2007) 5 SCC 769

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL REVISION CASE No.831 of 2016



07.02.2017
Msr