

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.R.C.No.1315 of 2005

ORDER

This revision under Sections 397 and 401 of Cr.P.C. is filed by petitioner/A1 challenging the order in Crl.M.P.No.153 of 2005 in Cr.No.87 of 2005 passed by the Judicial Magistrate of First Class, Chevella, Ranga Reddy District, dated 06.05.2005, dismissing the petition filed by petitioner for custody of rice seized by the respondent during investigation. A2 also filed a similar petition claiming interim custody of rice.

2. The case of the prosecution is that on 19.04.2005 at about 5.00 PM., on credible information, the S.I. of Police intercepted the lorry bearing No.AP 23 T 4406 with a load of rice bags at Shabad Cross roads and on interrogation, the driver of lorry i.e., A1 confessed that the owner of lorry, by name, Buchi Ramulu, who is arrayed as A2, was appointed as a Civil Supplies Contractor in Shadnagar and he was working as driver under A2 for the last four months on a salary of Rs.1500/- per month. The lorry was having the National permit.

3. The further case of the prosecution is that on 19.04.2005 at about 11.00 AM., A2 asked A1 to load 261 bags of rice from the FCI Godown and accordingly, A1 loaded the rice bags in the aforesaid lorry and was proceeding towards Vashi of Maharashtra State with the way bill issued by A3, and A4 was the cleaner of the lorry. The bags of rice belong to the Government, which is under a separate scheme and Food for Work and that A3 had falsely created a

document for transportation of the rice, on which panchanama was conducted in the presence of mediators and the Mandal Revenue Officer and the police seized the lorry along with the rice and that basing on the investigation, the police registered a case in Cr.No.87 of 2005 for the offences punishable under Sections 409 and 420 IPC. On 20.04.2005, A1 to A4 were arrested and remanded to judicial custody. Since the rice is a perishable commodity and there is a chance of being damaged if it is kept in the premises of Chevella Police Station, the prosecution requested to handover the seized rice to Civil Supplies Godown at Shadnagar.

4. The case of petitioner is that A2 being a contractor purchased the rice and it does not belong to the Government, as such, A2 did not violate any of the Control Orders and therefore, his lorry is not liable to be confiscated. As directed by this Court, the lorry along with the rice bags was sent to FCI godown and stamped, but the investigation was pending on that date. Therefore, the Court directed the Mandal Revenue Officer to sell away the seized property and deposit the sale proceeds to the credit of C.C., in the Court. Since the petition is filed under Sections 451 and 457 of Cr.P.C., the trial Court did not accept the contention of the petitioner and dismissed the said petition. Aggrieved by the said order, the present revision is filed.

5. When the matter came up for hearing, none appeared for the petitioner. However, this Court is bound to decide the revision under Sections 397 and 401 Cr.P.C., after perusing the record and come to an independent decision. The petitioner annexed a copy of the

order in Crl.P.No.3927 of 2004 dated 26.08.2004, wherein this Court directed the Magistrate concerned to register the petition filed by petitioner therein under Sections 451 and 457 Cr.P.C. seeking custody of the lorry and pass appropriate orders. Similarly, he also relied on the judgment of this Court in **Sheela Srinivas V. District Collector, Karimnagar and another**¹, wherein this Court held that the seizure of stocks of rice in a rice mill on the ground that the said stock was diverted to the mill out of the rice meant for Food for Work and the seizure is illegal as the owner of the rice mill is not a fair price dealer and as such the seizure is not covered by the Order and it can be done only under the provisions of Criminal Procedure Code.

6. Therefore, it is not a case of seizure of the rice meant for Food for Work, but seized only on account of violation of the Control Orders. However, while deciding the petition filed under Sections 451 and 457 Cr.P.C., it cannot be decided at this stage whether the prosecution itself is maintainable or not.

7. As it is a matter of 2005, by now, it might have been disposed of. But, conveniently, the counsel for petitioner did not represent the petitioner. Therefore, it is difficult to reverse the finding recorded by the trial Court since the rice was already sold and the amount was kept in fixed deposit to the credit of the C.C. on the file of Judicial First Class Magistrate, Chevella, in connection with Cr.No.87 of 2005 of Chevella Police Station, Ranga Reddy District.

¹ 2002(6) ALD 585

8. Therefore, the Criminal Revision Case is disposed of, and the interim direction dated 11.08.2005 will merge with the main order regarding disposal of the property. Since nothing is brought to the notice of this Court about disposal of C.C. either by the Public Prosecutor or the petitioner, the trial Court is directed to dispose of C.C., in connection with Cr.No.87 of 2005 of Chevella Police Station, Ranga Reddy District, if it is not disposed of, within four months from the date of receipt of a copy of this order. Miscellaneous petitions, if any, pending in this revision shall stand closed.

7th August, 2017

sj

M. SATYANARAYANA MURTHY, J

