

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATE : 27.10.2018

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

CRL. A. NO. 1080 OF 2003

State by
The Superintendent
Regulated Market of South Arcot
Market Committee
Chinna Salem, Salem Dt. .. Appellant

- Vs -

Arcot Mills Ltd.
Rep. by its Attorney
Thiru N.Annamalai
S/o Nataraja Chettiar
Ulaganathan, Kallakurichi Tk. .. Respondent

Criminal Appeal filed u/s 378 Cr.P.C. to set aside the order of acquittal passed by the lower appellate Court in C.A. No.71 of 2001 dated 30.10.02, on the file of the Addl. District Judge, Fast Track Court, Kallakurichi, reversing the order in C.C. No.123/00 dated 22.10.01 on the file of the Judicial Magistrate-I, Kallakurichi.

For Appellant : Ms. T.P.Savitha, GA (Crl. Side)
For Respondent : Mr. Bharatha Chakravarthy for
M/s.Sai Bharath

JUDGMENT

Aggrieved against the order dated 30.10.2002, passed by the Addl. District Judge, Fast Track Court, Kallakurichi, in C.A. No.71/01, reversing the order passed by the Judicial Magistrate, Kallakurichi, the present appeal has been preferred by the State.

2. The appellant herein, was tried before the Judicial Magistrate, Kallakurichi, for the offence u/s 18 (1) r/w Section 25 (a) & (b) of the Tamil Nadu Agricultural Produce Market Act, 1959 and Rules 51 (A) (1) (5) and 57 (a) of the Rules. On being found guilty, the accused was sentenced to pay a fine of Rs.500/- u/s 18 (1) r/w 25 (a) and (b) in default to undergo simple imprisonment for a period of one month and to pay a fine of Rs.200/- for the offence u/s 51 (A) (1) (5) r/w Rule 57 in default to undergo two weeks simple imprisonment. The accused was further directed to pay a sum of Rs.44,123.30 to the complainant, which is due to the market committee along with a costs of Rs.5,000/-, payable to the complainant.

3. Aggrieved against the said order, the accused/respondent herein, preferred appeal before the Addl. District Judge, Fast Track Court, Kallakurichi, who after hearing the parties acquitted the respondent herein. The State, aggrieved by the said acquittal, has preferred the present appeal.

4. The accused is a licensee under the Agricultural Produce Market Act, 1959, for trading in cotton, a notified commodity. The accused is duty bound to submit the returns periodically with regard to the purchase and sale of cotton within the notified market area. According to the prosecution, the return submitted for the period 1.4.79 to 31.3.80 revealed as if no transaction was made. Therefore, the notice was issued to the accused to produce the relevant documents in support of the said claim. However, the accused failed to produce the necessary documents as sought for by the appellant herein. Therefore, in the absence of documentary evidence, the appellant herein issued a notice on 17.9.80 calling upon the accused to pay fees to the tune of Rs.44,123.30. In spite of notice, the amount not having been paid, prosecution was launched against the accused/respondent before the Judicial Magistrate No.I, Kallakurichi.

5. After trial, the trial court found that the prosecution has established its case and, accordingly, passed the order for payment of fine, as stated above, in addition to directing the accused to pay the amount of Rs.44,123.30. Aggrieved by the said order, the accused/respondent herein preferred appeal before the Addl. District Judge, Fast Track Court, Kallakurichi. After hearing the parties on either side, the appellate court set aside the conviction and sentence imposed on the accused against which the present appeal has been preferred by the State.

6. A perusal of the order of the appellate court reveals that the complaint has originally been taken on file by the Sub Divisional Magistrate, Uldudurpet in C.C. No.1182/80 on 26.9.80. Subsequently, the case was transferred to the file of the Judicial Magistrate, Kallakurichi on the point of jurisdiction and has been taken on file in C.C. No.276/89. The accused challenged the proceedings before the High Court in W.P. No.6563/80 under which he was permitted to produce all relevant documents before the complainant within a period of eight weeks. Subsequent to that, the accused was acquitted on 22.10.93. Thereafter, complainant preferred C.A. No.107/94 and the High Court once again remitted the matter to the trial court. Thereafter, the trial court found the accused guilty against which appeal in C.A. No. 71/01 was filed. The judgment was delivered on 30.10.02 by which the appeal was allowed and the accused was acquitted.

7. In the appeal the accused raised a contention the purchases were made outside the State and, therefore, it is not liable to pay any fee and no prosecution could be launched against it in terms of the judgment in W.P. Nos. 4161/78 and 5121/79. This contention was accepted by the appellate Court. There is a finding that the documents submitted by the accused/respondent herein conclusively show that cotton was purchased outside the notified market area.

8. When the matter is taken up today, learned counsel appearing for the accused/respondent herein submitted that the entire amount of Rs.44,123.30 has already been paid to the appellant. Therefore, it is unnecessary to wait for receipt of the documents to dispose of the appeal on merits. However, learned counsel for the respondent herein submitted that due to efflux of time, the document vouching payment of the said amount is not available with it.

9. In such view of the matter, this Court is constrained to dispose of the appeal having regard to the long pendency with no possibility of getting the records and also having regard to the admission made that the accused has already paid a sum of Rs.44,123.30. If this amount is not found paid, liberty is granted to the appellant to realise the same in accordance with law.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Addl. District Judge
Fast Track Court
Kallakurichi.

2. The Judicial Magistrate-I,
Kallakurichi.

3. The Public Prosecutor
High Court, Madras.

CRL. A. NO. 1080 OF 2003

NRI (CO)
CSL/18.02.2019