

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2018

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.21901 of 2017

and

Crl.M.P.No.12857 of 2017

N.Nainar

... Petitioner /Accused No.1

Vs

State represented by the
Sub Inspector of Police
Sholavaram Police Station
Sholavaram,
Thiruvallur District,
in Crime.No.466/2017).

... Respondent/complainant

Prayer:Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to the proceedings in Crime No.466 of 2017 on the file of the Sub Inspector of Police, Sholavaram Police Station, Sholavaram and quash the same.

For Petitioner : Mr.M.Ganesh

For Respondent : Mrs.Kritika Kamal.P
Government Advocate (Crl.Side)

ORDER

What is admitted by the prosecution is that the petitioner was in possession of waste oil and therefore, he has been charged for the offences under the Essential Commodities Act, 1955 r/w. Motor Spirit and High Speed Diesel Regulation of Supply Distribution and Prevention of Malpractice Order 1998 under Sections 7(1)(A)(ii) 2(f), 3(iv) (v) (vi) (hereinafter referred to as "The MS&HSD Order").

2. The learned counsel for the petitioner submitted that the petitioner was only stocking and selling waste oil/furnace oil and as such has not violated any of the Clauses of the MS & HSD Order 1998.

3. The learned Government Advocate (Crl. Side) on the other hand opposed the same and by relying upon the extract of the Motor Spirit and High Speed Diesel Regulation of Supply Distribution and Prevention of Malpractice Order, 2005, dated 19.12.2005 issued by the Ministry Petroleum and Natural Gas, submitted that under the definition of Section 2(e) and (g), the petitioner is deemed to have violated the above provisions of MS & HSD of the Act.

4. At this juncture, it will be useful to refer to Clause 2(d) and (f) of the MS & HSD Order 1998, which reads as follows:-

(d) "high speed diesel" means any hydrocarbon oil (excluding mineral colza oil and turpentine substitute) which meets the requirements of Bureau of Indian Standards Specification No.IS-1460 and is suitable for use as fuel in compression Ignition Engines;

(f) "motor spirit" means any hydrocarbon oil (excluding crude mineral oil) which meets the requirements of Bureau of Indian Standards Specification No.IS-2796 and is suitable for use as fuel in Spark Ignition Engines;

5. On a careful reading of the above definition, it is clear that the "high speed diesel" and "motor spirit" must be suitable for use as fuel in Compression Ignition Engines as well as in Spark Ignition Engines. In other words, the MS & HSD should have the quality of ignition fuel in ignition engines. In the present case on hand, what was seized from the premises of the present petitioner is waste oil, which cannot be used as a fuel in Ignition Engines. As such it can be safely concluded that there is no malpractice or violation of MS & HSD, by storing such waste oil.

6. The learned Government Advocate (Crl. Side) also submitted that, such storage of waste oil without licence is contrary to the provisions of the said MS & HSD Order.

7. This submission is not based on the provisions of the said order. As stated above, the MS & HSD Act deals with the Regulation of Supply, and distribution of MS & HSD alone and as such, the storage of waste oil cannot be deemed to be contrary to the provisions of the said order.

8. In view of the above, this Court is of the opinion that the offences under the said order have not been made out. Consequently, the offences of the Essential Commodities Act, 1955 will also not be made out. In the absence of any offences having been made out as evidenced in the FIR, the petitioner need not be made to undergo the ordeal of a Criminal investigation.

9. In the result, the Criminal Original Petition stands allowed. The Investigation in Crime No.466 of 2017 on the file of the Sub Inspector of Police, Sholavaram Police Station, Sholavaram is quashed. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

dna/dh

To

1.The Sub Inspector of Police
Sholavaram Police Station
Sholavaram,
Thiruvallur District,
in Crime.No.466/2017).

2.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.M.Ganesh, Advocate Sr.No.12935

Cr1.O.P.No.21901 of 2017

RJ(CO)
KP(15/03/2018)