

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2018

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.No.22630 of 2018
and CrI.M.P.No.12569 of 2018

M.Balachandran

..Petitioner/Accused No.2

Vs.

1.The Inspector of Police
Civil Supplies CID
Chennai.

2.The Inspector of Police
P-3, Viyasarpadi Police Station
Viyasarpadi, Chennai.

.. Respondents/Complainant/
Defactor Complainant

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to call for the records pertaining to the case in FIR No.473 of 2011 on the file of the first respondent police and quash the same.

For Petitioner : Ms.D.Geetha
for Mr.R.Diwakaran

For Respondents: Ms.M.Prabhavathi
Additional Public Prosecutor

सत्यमेव जयते
O R D E R

This petition has been filed to to call for the records pertaining to the case in FIR No.473 of 2011 on the file of the first respondent police and quash the same.

2. On intelligence, the respondent police raided fair price shop no.52 on 16.06.2011 around 8.10 p.m. and found that the accused herein, who was working as salesman, along with another accused, had secreted 200 kgs of PDS rice in 4 plastic cans for sale in black market. The police arrested the accused and seized the contraband under the cover of mahazar and informed the same to the authorities. The police registered a case in Cr.No.473 of 2011 for offences under Sections 6(2)(3) of the

TNSC (RDCS) Order 1982 r/w Section 7(1)(a) (ii) of the Essential Commodities Act, 1955, for quashing which, the petitioner is before this Court.

3. Heard Ms.Geetha, learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State.

4. Learned counsel for the petitioner submitted that in the departmental proceedings dated 22.08.2011, the authorities have given a clear finding that after the raid by the police, when the stocks were checked, the shortfall was only 10 kgs raw rice and 30 kgs boiled rice and therefore, the contention of the police that the petitioners have secreted 200 kgs of rice is false. She also contended that the petitioner was given increment cut in the departmental action. She also contended that there was no shortage of rice bags in the fair price shop, which is a material index to show that there was no shortfall. Learned counsel also placed reliance upon the order passed by this Court in Crl.O.P.No.15967 of 2017 dated 14.06.2018, wherein, this Court had quashed the prosecution against the accused therein.

5. Per contra, the learned Additional Public Prosecutor submitted that the police were not able to complete the investigation since the department has not supplied the necessary records.

6. This Court gave its anxious consideration to the rival submissions.

7. As regards the order passed by this Court in Crl.O.P.No.15967 of 2017 dated 14.06.2018, this Court observed that a private person was intercepted by the police in Tondiarpet Railway Station with 600 kgs of PDS rice and she had implicated the officials in her confession statement, which would have no evidentiary value in the light of Section 25 of the Evidence Act. However, in this case, there has been a seizure of 200 kgs of rice which is corpus delicti and strangely the police have not registered the FIR under Sections 379 and 380 IPC.

8. As regards the finding in the domestic enquiry, the same is not binding on the police investigation and can be used only as a guide for the police to proceed further with the enquiry. Therefore, this Court directs the respondent police to obtain necessary records to complete the investigation in Cr.No.473 of 2011 within six months from the date of receipt of a copy of this order and if it is found during investigation that the petitioner is innocent, it is needless to state that action against him shall be dropped.

With the above direction, this petition is closed.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gms

To

1. The Inspector of Police
Civil Supplies CID
Chennai.
2. The Inspector of Police
P-3, Viyasarpadi Police Station
Viyasarpadi, Chennai.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Diwakaran, Advocate, S.R.No.69880

Crl.O.P.No.22630 of 2018

GJ(CO)
CS/26/10/2018



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