



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.04.2018

CORAM:

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1.O.P (MD) Nos.20992 to 20999 of 2013
and

M.P (MD) .Nos.1, 2, 1, 2, 1, 2, 1, 2, 1, 2, 1, 2, 1 & 2 of 2013

S.K.A.Alagarsamy	...Petitioner in CRL.OP (MD) .20992/2013
Mrs.R.Anbuselvi	...Petitioner in CRL.OP (MD) .20993/2013
Mr.A.Ravichandran	...Petitioner in CRL.OP (MD) .20994/2013
Mr.A.Manoharan	...Petitioner in CRL.OP (MD) .20995/2013
Mrs.M.Santhi Mano	...Petitioner in CRL.OP (MD) .20996/2013
Mr.A.Manoharan	...Petitioner in CRL.OP (MD) .20997/2013
Mr.A.Santhanam	...Petitioner in CRL.OP (MD) .20998/2013
Mrs.Venkadeswary	...Petitioner in CRL.OP (MD) .20999/2013

Vs.

The Superintendent of Market,
Regulated Market,
Dindigul Market Committee,
Dindigul.

... Respondent in All Cr1.OPS

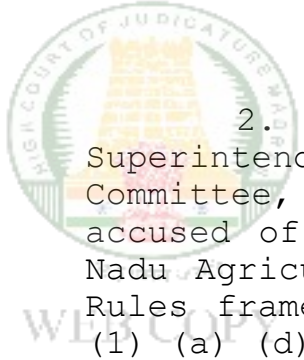
COMMON PRAYER: Petition is filed under Section 482 Code of Criminal Procedure, to quash the proceedings in S.T.C.No.700 to 707 of 2013 respectively on the file of the Judicial Magistrate No.II, Dindigul.

For Petitioner : Mr.T.R.Subramanian
in all petitions

For respondent : Mr.Robinson
in all petitions Government Advocate (Cr1.side)

COMMON ORDER

Heard the learned counsel on either side.



2. In all these criminal original petitions, the Superintendent of Market, Regulated Market, Dindigul Market Committee, Dindigul, is the complainant. The petitioners stand accused of having violated Sections 8(1), 8(9) and 24(1) of Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987 and the Rules framed thereunder and therefore, punishable under Section 48 (1) (a) (d) of the said Act.

3. The case of the complainant is that the petitioners are doing business in coconut in the territorial limit coming under the jurisdiction of the respondent market committee. The petitioners originally obtained license, but, after the expiry of the license period, they have not renewed the same. They have refused to remit the licence fee. They have taken the stand that they are dealing only in watery coconuts, which are meant for human consumption or religious purpose only. Therefore, they are not obliged to take license from the market committee. The complainant has further averred in his complaint that the Act has since been amended by issuing G.O.Ms.No.222 dated 01.10.2010 and that coconuts of all forms except the tender coconut have been brought within the purview of the statute.

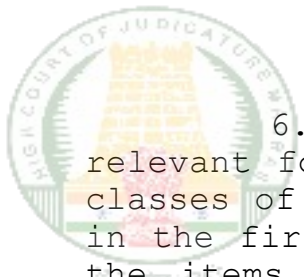
4. The regulated market has been established at Dindigul and an area of 16 km around Dindigul has been declared as a notified market area for the purpose of regulating the sale and purchase of agricultural produce as per G.O.Ms.No.11, Agriculture Department, dated 08.01.1998. Since the accused have declined to renew their license even after issuance of notices, the impugned complaint came to be filed. The complaint filed by the respondent herein was taken on file by the learned Judicial Magistrate No.II, Dindigul, and summons were issued to the petitioners.

5. It is necessary to examine the scheme of Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987. This Act intends to regulate buying and selling of agricultural produce, establishment and proper administration of markets for agricultural produce in the state of Tamil Nadu. The expression "agricultural produce" has been defined to mean any produce of agriculture, whether processed or un-processed as specified in the schedule. Section 8(1) of the said Act reads as follows:-

"8(1) No person shall, within a notified area,

(a) set up, establish or use, or continue or allow to be continued, any place for the purchase or sale, storage, weighment, measurement or processing of any notified agricultural produce, or

(b) operate as a broker, weighman, measurer, trader, ware-houseman or in any other capacity in relation to the buying and selling of any notified agricultural produce, except under, and in accordance with the conditions of, a licence granted to him by the market committee.



6. The proviso and explanation of Section 8(1) are not relevant for the present purpose. The schedule to the Act lists 15 classes of Agricultural Produce. Those 15 classes have been set out in the first column of the schedule. Corresponding to each class, the items of the agricultural produce is set out in the Second column.

7. This Court is of the view that the schedule will have to be read and understood as a whole. After individually naming 14 classes of Agricultural Produce such as Cereals, Pulses, Oil Seeds, Fiber, Vegetables and sericulture, the residual class under the category "miscellaneous" is mentioned as the 15th class of Agricultural Produce. Against the miscellaneous class, sugarcane jaggery, palm jaggery and raw rubber in all forms have been set out. "Coconut" figures as the 5th category under the class of oil seeds. Earlier, the entry in question was "coconut, un-husked or husked or kopra". This was the subject matter of the judgment of Madurai Bench of Madras High Court in S.A.(MD).No.645 of 2008. The said second appeal ended against the Market Committee Purporting to over come the effect of the said judgment of this Court rendered on 24.09.2008 in S.A.(MD).No.645 of 2008, the Government of Tamil Nadu amended the schedule by issuing G.O.Ms.No.222 dated 01.10.2010.

8. The question that has to be considered is whether the amendment introduced in the schedule will make any difference. The categorical judgment of this Court was that the entries in the schedule will have to be construed as such. What is sought to be brought within the scope of the Statute in question are certain classes of agricultural produce. As already pointed out, the residual miscellaneous category of agricultural produce is also mentioned as the last class in the said schedule. "Coconut" is not brought under the said clause. Instead it has been brought only under the category of oil seeds. Therefore, this Court is of the view that the schedule, which has two columns will have to be construed as a whole. In other words, both the columns will have to be read together. In the first column, the class is mentioned and in the second column the names of the agriculture produce have been mentioned. This Court is of the view that they have to be conjointly read together. If such an approach is adopted, only if the coconut is an oil seed and then alone, it can be brought within the scope of the Act. In this case, even the complainant does not dispute the fact that the coconuts in which the petitioners are trading are edible ones and meant for human consumption or religious purposes. They cannot be used as oil seeds. That is why, even in the schedule, the tender coconuts have been excluded. On a meaningful and purposive interpretation, this Court can only hold that what can be brought within the scope of the schedule are coconuts, which are oil seeds. Since the petitioners are not trading in such coconuts which are oil seeds, the petitioners cannot be compelled to take license from the respondent. In this view of the matter, this Court is of the view that the respondent has not made out a case for prosecuting the petitioners.



9. In the result, the impugned proceedings in all these petitions are quashed and these Criminal Original Petitions stand allowed. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No. II,
Dindigul.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr. T. R. Subramanian, Advocate, SR.No.61940.

ORDER MADE IN
Crl.O.P (MD) Nos.20992 to 20999 of 2013

rmk/pjl

RAM/SKN RSK/SAR 2/18.07.2018/4P/4C