HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No.2551 of 2014

ORDER:

Heard the learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondent State.

The present revision case is filed against the judgment passed in Crl.A.No.14 of 2014 dated 18.09.2014 on the file of the Principal Sessions Judge, Warangal, confirming the orders of the Joint Collector, Warangal dated 27.12.2013 confiscating 100% value of the seized stock worth Rs.36,157/- in favour of the State Government.

The facts in brief are that on 13.08.2013 at about 11.30 a.m., the Deputy Tahsildar, Maripeda, inspected the fair price shop of the petitioner at Chityala Village and inspected the stock value in the premises in the presence of the mediators. On demand, the dealer produced the records for verification. As per the verification, the Deputy Tahsildar found variations with regard to the available ground balance and the entries made in the register. Accordingly, he submitted a report. Pursuant to the report, a show cause notice under Section 6B of the Essential Commodities Act (for shot, "the Act") was issued on 27.08.2013 calling upon the petitioner to submit his explanation as to why the seized stocks should not be confiscated in favour of the Government. In response to the said show cause notice, the petitioner submitted a detailed explanation particularly with regard to his absence on the date of inspection by the Deputy Tahsildar. The Joint Collector, Warangal, after appreciating the matter and also considering the explanation submitted by the petitioner, passed orders on 27.12.2013 ordering confiscation of 100% value of the seized stock in favour of the Government. Apart from the same, the petitioner was warned not to repeat the same in future, otherwise, criminal action will be initiated against him under the provisions of Section 7 of the Act. Aggrieved by the said orders, the petitioner filed an appeal vide Crl.A.No.14 of 2014 before the Principal Sessions Judge, Warangal. The learned Sessions Judge, after hearing, was pleased to dismiss the appeal by judgment dated 18.09.2014. Aggrieved by the same, the present revision case is filed.

Learned counsel appearing for the petitioner would contend that on the date of inspection by the Deputy Tahsildar, the petitioner was unwell for the last one week preceding the inspection and he could not maintain the records properly leading to variations in the stocks available on ground compared to the records. Learned counsel also submitted that both the authorities after observing that the petitioner was unwell and he could not make all the entries in the record books, still passed the order of confiscation of 100% value of the seized stock. The said action is arbitrary. Learned counsel also submitted that there is no finding with regard to either diversion or for doing any clandestine business.

Per contra, learned Public Prosecutor appearing for the respondent State supported the impugned order and at the same time, he fairly conceded that the explanation offered by the petitioner with regard to the ill-health though considered by both the authorities, still ordered confiscation of 100% value of the seized stock, which appears to be arbitrary.

Having heard both the counsel and from the perusal of the material on record, the only question that arises for consideration is:

> In the light of the explanation submitted by the petitioner, whether confiscation of 100% value of the seized stock is warranted?

In response to the show cause notice, the petitioner has categorically submitted that he was suffering from fever and got treatment at Ramachandra Maternity and Nursing Home, Thorrur and Sri Krishna Multi Specialty Hospital, Thorrur from 10.08.2013 to 17.08.2013. Both the authorities have not found fault with the said medial prescription papers produced by the petitioner. When the said medical prescription papers are accepted to be true, it cannot be said that the petitioner has intentionally not maintained the records tallying with the ground stock available in the premises. In such circumstances, confiscation of 100% value of the seized stock appears to be excessive and will not commensurate with the irregularity/variations found in the premises at the time of inspection.

In these circumstances, this Court is of the opinion that the order impugned in the present revision case is liable to be modified to the extent of confiscation of 50% value of the seized stock in favour of the Government.

With the above observation, the criminal revision case is disposed of.

Miscellaneous petitions, if any, shall also stand disposed of.

P. KESHAVA RAO, J

Date: 28.09.2018.
ES