THE HON'BLE SRI JUSTICE P.KESHAVA RAO

CRIMINAL REVISION CASE No.1030 OF 2010

ORDER:

This Criminal Revision Case is filed questioning the judgment passed in Crl.A.No.18 of 2010 dated 17.03.2010 on the file of the Court of the District and Sessions Judge, Prakasam District, Ongole, partly allowing the appeal and thereby modifying the orders of the District Collector, Ongole reducing the confiscation of the bank guarantee, filed by the petitioner in favour of the Government, from 75% to 25%.

Heard the learned counsel for the petitioner as well as the Public Prosecutor appearing for the respondents.

The facts, in brief, are that the Enforcement Deputy Tahsildar, Ongole-II, on receipt of information, along with Food Inspector, Ongole inspected the rice mill of the petitioner i.e. Sri Venkata Padmavathi Rice Mill of Upugunduru village on 30.08.2006. On examination, they found that the mill transported four lorries of rice Q.630.00 to Railway Station, Chirala for onward transportation of the same to other states through Railway wagons. On verification of the stock register maintained by the miller and also the physical verification, variations were found. Further a perusal of the 'B' register revealed that the petitioner had to deliver mill levy to Government, a quantity of Q.7161.94 of rice, but he delivered only Q.2225.00 of rice. In the course of enquiry, it is also revealed that the four lorries' load of rice has been transported to Railway Station for transport to Lonia Marketing, Assam. According to Clause 3 and 4 of A.P. Rice Procurement

Levy Order, 1984, every licensed trader shall sell to the Food Corporation of India ('FCI')/State Civil Supplies Corporation ('SCSC') at the procurement price i.e. 75% of rice in each variety, but the petitioner failed to deliver the required quantity of levy rice to FCI/SCSC and thereby contravened the provisions of law under Clause-3 of A.P. Rice Procurement Levy Order, 1984. As such, Enforcement Deputy Tahsildar, Ongole-II seized the available stocks of Q.7242.64 of Paddy, Q.508.48 of rice, Q.486.25 of Brokens and Q.105.70 of Brawn under a cover of panchanama and filed a report under Section 6-A of the Essential Commodities Act. As an interim disposal, the Collector directed the Mandal Revenue Officer, N.G.Padu to dispose of the seized stock through public auction as per the procedure in vogue and to remit the realized amount into the Revenue Deposits pending enquiry under Section 6-A of the Essential Commodities Act.

Aggrieved by the said seizure, the petitioner approached this Court by filing W.P.No.20587 of 2006. This Court in W.P.M.P.No.26037 of 2006 issued interim direction to release the stock subject to the condition of the petitioner furnishing a bank guarantee for 25% of the value of the goods seized. Thereafter, a show-cause notice was issued to the petitioner under Section 6-B of the Essential Commodities Act. The petitioner submitted his explanation through his counsel. The Collector vide proceedings in Rc.CS1/6A/67/2006, dated 08.01.2010 ordered confiscation of 75% of the bank guarantee produced by the petitioner, in favour of the Government. Aggrieved by the same, the petitioner filed Crl.A.No.18 of 2010 on the file of District Sessions Judge, Prakasam District. The lower appellate authority, after hearing the parties and considering the material on record, was pleased to allow the appeal in part by orders dated 17.03.2010 modifying the order of the primary authority-District Collector reducing the confiscation of bank guarantee produced by the petitioner, from 75% to 25%. Aggrieved by the said orders, dated 17.03.2010, the present Criminal Revision Case is filed.

The learned counsel appearing for the petitioner contended that the variations/objections noted by the authorities are that the levy rice is not supplied to the FCI/SCSC and there is a variation in the stock. As far as the non-supply of levy rice to the FCI/SCSC is concerned, consequent upon the orders of the Central Government in G.S.R.No.104(E), dated 15.03.2002, there is no compulsory levy for giving of rice to FCI/SCSC though percentage of levy is increased. As far as the variations in the stock is concerned, in fact, there are no variations in the stock available and the Registers maintained by the rice mill. Even assuming that there are variations, which are found on inspection, the same are within the permissible limits. He also submitted that the lower appellate authority as well as the primary authority failed to consider that there are no specific guidelines issued as to what quantity to be given towards levy rice to FCI. In these circumstances, the lower appellate authority ought to have allowed the appeal in toto rather than reducing the confiscation of bank guarantee from 75% to 25%.

Per contra, the learned Public Prosecutor appearing for the respondents-State supported the impugned judgment in the

Criminal Appeal and requested to dismiss the revision since there are no merits.

Having heard the learned counsel for the petitioner as well as the learned Public Prosecutor and from the perusal of the material on record, it is revealed that the petitioner has been booked under Section 6-A of the Essential Commodities Act. On verification, it is found that the petitioner has not supplied the levy rice to the FCI/SCSC and also there is slight variation in the stocks available in the mill and the Registers maintained in that regard. It is revealed from the record that the impugned acts alleged against the petitioner are not properly maintaining the books of accounts; not tallying the stock on ground compared with the Registers; and non-supplying of levy rice to FCI/SCSC. However, in view of the fact that the variations are minimal and since the supply of levy rice to FCI/SCSC is not compulsory in the light of GSR No.104(E), dated 1503.2002, this Court is of the opinion that even the confiscation of 25% of the bank guarantee, as modified by the lower appellate authority is on higher side. Therefore, this Court deems it appropriate to reduce the confiscation of bank guarantee to 15% by ordering return of 10% bank guarantee to the petitioner.

In these circumstances, the Criminal Revision Case is disposed of as indicated above.

Pending miscellaneous petitions, if any, shall stand closed.

P.KESHAVA RAO,J

27th JUNE 2018.
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