THE HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No.2121 of 2014

ORDER:

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

The present criminal revision case is filed questioning the judgment in Criminal Appeal No.75 of 2014 dated 1.10.2014 on the file of the Court of the Principal Sessions Judge, Warangal, modifying the extent of compensation to 25% of value of the variation in stocks between the book value and ground value from 70% under the orders passed by the District Collector, Warangal, dated 28.6.2014.

The facts in brief are that the petitioner is a Dal Mill dealing with essential commodities. On 15.4.2014, a surprise check was conducted in the mill premises where under the inspecting staff observed that the miller is not maintaining true and correct accounts as there is huge variation in ground value with reference to book balance, thereby contravened clause 18(3) of the A.P. Scheduled Commodities Dealers (Licensing, Storage and Regulation) Order, 2008, not submitted Form-C returns to the licensing authority, not exhibited the price cum stock board at conspicuous place of the mill and not produced milling process and yielding register to the inspecting officials. Pursuant to the said inspection and on the report submitted thereto, the petitioner was issued a show-cause notice dated 6.5.2014 seeking explanation as to why the seized stock should not be confiscated. In response to the said show-cause notice, the petitioner has given an explanation. The District Collector, Warangal, in his order dated 28.6.2014 ordered confiscation of 70% value of the stocks variation i.e. Rs.10,23,900/- in favour of the Government. In the said order, the District Collector, has mentioned that 2% variation of stocks between the ground and book balance has been allowed. The petitioner was maintaining true and correct stocks. Aggrieved by the said order, the petitioner filed Criminal Appeal No.75 of 2014 on the file of the Court of the Principal Sessions judge, Warangal. After hearing, the learned Sessions Judge, dismissed the appeal on 1.10.2014 modifying the extent of confiscation to 25% of value of the variation in stocks, between the book value and ground value. It is relevant to mention that the lower appellate Court, exonerated the charge Nos. 2 and 3. Aggrieved by the said judgment, the present criminal revision case is filed.

Learned counsel appearing for the petitioner strenuously contended that the violations as mentioned in the show cause notice are purely technical in nature. In fact, the petitioner has been maintaining the stock records with reference to ground position and books of accounts. The alleged variation is only with reference to the quality of the dal compared to the previous year. He also submitted that the petitioner was submitting the returns in Form-C of the stocks to the licensing authority periodically, thereby, he has not contravened condition 4 of Form-B license. He has not purchased pulses illegally and not holding without bill.

Per contra, the learned Public Prosecutor appearing for the respondent-State, supported the impugned judgment and contended that it is not a fit case where any indulgence can be shown from this Court.

Having heard both the counsel and from the perusal of the material on record, it is revealed that the petitioner is a dal mill dealing in pulses. On a surprise check conducted by the concerned authority on 15.4.2014, variations as mentioned in the show-cause notice were observed. In the explanation, the petitioner submitted that he has not violated any condition of either the license issued in Form-B or Clause 18(3) of the A.P. Scheduled Commodities Dealers (Licensing, Storage and Regulation) Order, 2008. Out of four charges, charge Nos. 2 and 3 have already been dropped by the lower appellate Court.

As such, the issue crops up for consideration in the criminal revision case is with regard to clandestine business and the petitioner purchasing the stock illegally and holding them without any bill with *mala fide* intention to sell it for more than the market rate prevailing in the locality. As mentioned in the orders of the District Collector, Warangal, there is variation in the book balance and the ground balance regarding the red gram dal. The difference in variation is more than 2%. However, the learned counsel submitted that the above said variation is with reference to the quality of the red gram compared to the previous year. However, the said contention of the petitioner has been repelled by the District Collector as well as lower appellate Court. When once it is established that the ground balance quantity is in excess of the book balance quantity, it can be safely said that the petitioner has been doing the clandestine business for the purpose of holding them and selling the said quantity more than the market price in the locality. A further perusal of the material on record, it does not disclose proper appreciation of the objection taken by the petitioner with regard to the quality of the red gram dal resulting in variation. Except saying that the said objection is taken only for the purpose to get over the charge, nothing has been mentioned. Be that as it may, without further going into other aspects, this Court is of the opinion that reducing the confiscation of the seized stock to 25% by the lower appellate Court is excessive. Therefore, this Court deems it appropriate to reduce the same further by 15% of value of the stock variation in favour of the State Government.

With the above said observation, the Criminal Revision Case is disposed of.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE P.KESHAVA RAO

Date: 04/09/2018

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