

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL REVISION CASE NO.2599 OF 2018

ORDER:

This Criminal Revision case is arising out of order, dated 05.09.2018 passed in CrI.M.P.No.593 of 2018 in C.C.No.459 of 2018 passed by the Judicial Magistrate of I Class, Avanigadda.

2. The petitioners are A1 and A2 in C.C.No.459 of 2018. The Court took taken cognizance of the offences punishable under Sections 7 (1) of Essential Commodities Act, 1955 (for short 'E.C.Act') and 420 IPC against A1 and A2. The petitioners filed CrI.M.P.No.593 of 2018 under Sections 451 and 457 Cr.P.C. for release of TATA ACE bearing No. AP 07 TD 308 belongs to the 1st petitioner-A1 and 20 quintals of rice belongs to the 2nd petitioner-A2. The CrI.M.P.No.593 of 2018 has been dismissed by the trial Court on the ground that the petitioners have already filed a claim petition for release of seized vehicle and stock, before the learned Joint Collector, Krishna. In fact, the Joint Collector has passed orders refusing to release the vehicle and stock. The endorsement on 09.02.2018 informing that there is no 6 (A) case pending before the Joint Collector, under the E.C. Act, and therefore, the petition filed by the petitioners was rejected. In para 3 of the order of the trial Court, it is stated that as per Section 6 (E/C) of the E.C. Act, there is a bar of jurisdiction in certain cases. But in the present case, the Joint Collector already stated that there is no case under Section 6 (A) is pending against the petitioners and as such, the jurisdictional Magistrate Court has got jurisdiction to pass order for release of the property since the property was seized in C.C.No.459 of 2018, pending on the file of the learned Magistrate.

3. The trial Court without considering the pleas of the petitioners has , however, refused to release the property on the ground that A1 is transporting 20 quintals of rice meant for public Distribution System, which is a bar under Section 6 (E) of the E.C Act.

4. Learned counsel for the petitioners submits that since 6 (A) proceedings are not pending before the Joint Collector to invoke the provisions under Section 6 (E) of the E.C. Act, no proceedings are initiated under Section 6 (A) of the E.C. Act. In such caswes, the learned Magistrate has got jurisdiction to release the property. Section 6 (E) of the E.C. Act bars jurisdiction in certain cases, which reads thus:

“Whenever any essential commodity is seized in pursuance of an order made under Section 3 in relation thereto, or any package, covering or receptacle in which such essential commodity is found, or any animal vehicle, vessel or other conveyance used in carrying such essential commodity is seized pending confiscation under Section 6-A, the Collector, or as the case may be, the State Government concerned under Section 6C shall have, and, notwithstanding anything to the contrary contained in any other law for the time being in force, any Court, Tribunal or other authority shall not have jurisdiction to make orders with regard to the possession, delivery, disposal, release or distribution of such essential commodity package, covering, receptacle, animal, vehicle, vessel or other conveyance.”

The above provision makes it clear that only pending confiscation under Section 6-A, the Collector or as the case may be shall have, and, notwithstanding anything to the contrary contained in any other law for the time being in force, any Court, Tribunal or other authority shall not have jurisdiction to make orders with regard to the possession, delivery, disposal, release or distribution of such essential commodity package, covering, receptacle, animal, vehicle, vessel or other conveyance.

5. In the instant case, the order of the Joint Collector clearly reveals that no 6 (A) proceedings are pending. Therefore, the trial Court has taken an erroneous view holding that Section 6-E of the E.C. Act bars jurisdiction of the Court for release of the vehicle and stock.

6. Learned Additional Public Prosecutor submits that the Government has no objection for release of the vehicle and PDS rice to the petitioners on furnishing sufficient security.

7. It is pertinent to note that under Sections 451 and 457 Cr.P.C. the petitioners are entitled for release of property, which is a vehicle and stock of rice as they would get spoiled as the vehicle is kept idle and the stock is in stores.

8. Having regard to the facts and circumstances of the case and in view of the submission made by the learned Additional Public Prosecutor and since no 6 (A) proceedings are pending against the petitioners, the vehicle and PDS rice are given interim custody to the petitioners on the following conditions:

1. The 1st petitioner-A1 shall produce original RC and C book before the concerned Magistrate;

2. The 1st petitioner-A1 shall execute a bank guarantee for the amount equivalent to the PDS rice sought to be released, to the satisfaction of the learned Magistrate.

3. The 1st petitioner-A1 shall furnish surety equivalent to the value of the vehicle TATA ACE bearing No. AP 07 TD 308 sought to be released, to the satisfaction of the learned Magistrate.

4. The 1st petitioner-A1 shall not alienate, destroy or damage the vehicle and produce the same before the learned Magistrate as and when required.

9. Accordingly, the Criminal Revision Case is allowed. Miscellaneous petitions, if any pending in this revision shall stand closed.

GUDISEVA SHYAM PRASAD, J

DATED: 23-10-2018

Note: Issue CC in one week

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