

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL REVISION CASE No.2700 of 2018

ORDER :

This Criminal Revision Case is arising out of the judgment dated 29.08.2018 in Food Safety Appeal No.177 of 2017 passed by the Principal District and Sessions Judge-cum-Appellate Tribunal under Food Safety and Standard Rules, Krishna at Machilipatnam (lower appellate Court), confirming the judgment dated 17.09.2016 in Rc.No.006/KR//07215 of 2016 passed by the Joint Collector-cum-Adjudicating Officer, Krishna District at Machilipatnam (trial Court).

On a complaint filed by respondent No.2 – Food Safety Officer, Krishna District, against the petitioner under Section 68 of the Act, alleging that he was indulging in the sale of sub-standard KGS Double Filtered Ground Nut Oil – Agmark for human consumption in violation of Sections 26(2)(ii) and 27(1) of the Food Safety and Standards Act, 2006 (for brevity “the Act”), the trial Court vide Judgment dated 17.09.2016 in Rc.No.006/KR//07215 of 2016, held the petitioner liable for punishment under Section 51 of the Act and imposed a fine of Rs.2,00,000/- against him. On appeal by the petitioner, vide judgment dated 29.08.2018 in Food Safety Appeal No.177 of 2017, the lower appellate Court dismissed the appeal thereby confirming the judgment of the trial Court, however, reduced

the quantum of penalty from Rs.2,00,000/- to Rs.1,00,000/-. Aggrieved by the same, the petitioner has filed the present revision seeking further reduction of the penalty amount.

Heard learned counsel for the petitioner and the learned Public Prosecutor appearing for respondent No.1 – State. Perused the material on record.

Learned counsel for the petitioner submits that the petitioner is only a seller and he is unaware of the sub-standard quality of Ground Nut Oil offered for sale by the Manufacturer and, therefore, he is not liable for punishment and it is the Manufacturer of the sub-standard goods, who is liable for punishment as per the provisions of the Act.

Learned counsel for the petitioner further submits that the petitioner is only a Trader and not a Manufacturer of the goods, as such the quantum of penalty imposed against the petitioner may be reduced.

The learned Public Prosecutor submits that the revision petitioner is only a Trader and he has not violated the provisions of the Act.

The lower appellate Court has observed that the appellant (petitioner) being a Trader was not sure that the ground nut oil did not confirm the prescribed acid value and as per Clause (e) of Section 49 of the Act, the petitioner is not a chronic violator of the Act and Rules and that he has not

contravened the rules of the Act on earlier occasions, therefore, imposition of Rs.2,00,000/- as penalty is proportionately excessive to the magnitude of the charge under Sections 26(2)(ii) and 27(1) of the Act and accordingly, reduced the quantum of penalty from Rs.2,00,000/- to Rs.1,00,000/-.

From the above, it is obvious that the petitioner is only a Trader and not a Manufacturer of the substandard goods and that he has not contravened the provisions of the Act on earlier occasions. Therefore, ends of justice would be met if the penalty imposed against the petitioner is further reduced to Rs.80,000/-.

Accordingly, this Criminal Revision Case is disposed of, while holding the revision petitioner guilty of violation of Sections 26(2)(ii) and 27(1) of the Act, however, by further reducing the penalty amount imposed by the trial Court from Rs.2,00,000/- to Rs.80,000/- (Rupees eighty thousand only).

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

GUDISEVA SHYAM PRASAD, J

24.12.2018
Msr

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