

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.3353 OF 2017

JUDGMENT:

The present Criminal Revision Case is filed under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short 'Code') against the judgment, dated 31.10.2017, passed in Criminal Appeal No.146 of 2016, by the Principal Sessions Judge, Nalgonda, whereby and where-under, the learned Sessions Judge, while confirming the findings recorded by the respondent No.1 - Collector and District Magistrate, Nalgonda, in Case No.CS1/960/2016, dated 18.08.2016, but, however, reduced the quantum of confiscation from 60% to 30% only with a direction to the concerned to release balance 30% or its value to the revision petitioner.

2. Heard Sri Bollam Lingaiah Yadav, learned counsel for the revision petitioner, and the learned Special Assistant Public Prosecutor for the State of Telangana.

3. The learned counsel for the revision petitioner would submit that the revision petitioner has got license to sell the red gram and he stored the same in a house standing in the name of his wife, and only to accommodate the storage of that much quantity, as his son's marriage was scheduled to take place, and for want of space, the quantity was shifted to the house standing in the name of his wife. Therefore, it is his submission that there is no contravention at all and

the confiscation order passed by respondent No.1 as affirmed by the learned Sessions Judge though, reduced the confiscation from 60% to 30% was ordered, still, the judgment is liable to be set aside and so also the confiscation order passed by respondent No.1.

4. Per contra, the learned Special Assistant Public Prosecutor would submit that in fact, the premises, in which the quantity of 242.40 quintals of red gram was found, was in Go-down Nos.20-247 and 20-252/2, situated at Market Yard, Devarakonda. The learned Special Assistant Public Prosecutor has drawn the attention to the Form of License Renewal of License (Form No.8) issued by the Agricultural Market Committee, Devarakonda showing the name as 'Sri Laxmi Venkateshwara Trading Company' with door No.20-253. He has also drawn the attention to the license for purchase, sale, storage for sale of scheduled commodities, dated 11.11.2008, which is a composite license for all scheduled commodities, both wholesale and retail, showing the name of the Company as 'M/s. Sri Laxmi Venkateshwara Trading Company, Market Yard, Devarakonda village and Mandal of Nalgonda District, and go-down number as 20-253, AMC, Devarakonda and 20-260/1, AMC, Devarakonda, but not the door number 20-252/2. The explanation offered by the revision petitioner at a later stage was that since his son's marriage was fixed, to have space for accommodation purpose, he shifted the red gram to the door No.20-252/2. In fact, his son's marriage was scheduled to take place six months before seizure.

5. A perusal of order passed by the learned Sessions Judge would shows that the revision petitioner has changed his statement originally made at the time of inspection when it came before respondent No.1 by stating that he was doing red gram business having license, and that because of his son's marriage, he stored that quantity in the house standing in the name of his wife and to that extent he also filed wedding card of his son, and thereby rejected the stand taken by the revision petitioner and affirmed the order of confiscation, but, however, taking a lenient view, reduced the quantum of confiscation from 60% to 30%, giving a direction to release the balance 30% to the revision petitioner.

6. The record also shows that the inspection took place on 29.03.2016, but in fact, the marriage of his son was celebrated on 26.11.2015 as could be seen from the wedding card. The order of respondent No.1 would clearly show that on inspection it was found that not only the red gram was stored in an unlicensed premises, but even the accounts maintained were not up to date and, thus, accounted for non-maintenance of accounts by the revision petitioner. The contraventions alleged against the revision petitioner were that he committed an illegal act of storing the red gram at other than the licensed premises accounting for infraction of condition 2 (a) of the license issued under Andhra Pradesh Scheduled Commodities Dealers (Licensing, Storage and Regulation) Order, 2008, which is in

contravention of Clause 7 of the said Order, 2008 read with the provisions of Section 3 of the Essential Commodities Act, 1955.

7. To get the concurrent findings recorded by both the Courts below unless patent illegality is shown, the revision petitioner cannot succeed. The submissions made by the learned counsel for the revision petitioner aforementioned, *ex facie*, are unconvincing when the marriage of the son of the revision petitioner had taken place about five months prior to the date of inspection. Certainly, there was no reason to store the red gram of huge quantity of 242.40 quintals in an unlicensed premises. Second, when the inspection was conducted, the said stand was not put forth before the Inspecting Authority. This apart, non-maintenance of accounts or non-entry of transactions up to date is yet another circumstance from which an inference adverse to the case of the revision petitioner automatically arises. Therefore, it has to be held that absolutely there is no merit in the present Criminal Revision Case. The confiscation order passed by respondent No.1 as affirmed by the learned Sessions Judge is on correct-lines based on the process of reasoning and the defence set up by the revision petitioner was an after thought to get over both the lapses, the first is storing the red gram in an unlicensed premises and second, non-entry of transactions up to date.

8. Therefore, the Criminal Revision Case is dismissed.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the criminal revision case, stand closed.

A. SHANKAR NARAYANA, J

January 02, 2018.
Mgr

