

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.3354 OF 2017

JUDGMENT:

Challenging the judgment, dated 25.10.2017, in Criminal Appeal No.28 of 2017, on the file of the Principal Sessions Judge, Nalgonda, whereby and where-under, the learned Sessions Judge while confirming the confiscation order of 85.00 quintals of Public Distribution System (PDS) rice, dated 19.01.2017 in Case No.CS1/1854/2016, passed by respondent No.1 - Collector (CS), Nalgonda, however, set aside the order of imposition of fine amount of Rs.10,000/- on the owner of lorry bearing registration No.AP 16T 0446, directing to release the said amount to him, the revision petitioner - appellant - respondent No.1 preferred the present Criminal Revision Case under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short 'Code').

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 not contravened any Clause, conditions of the Telangana State Public Distribution System (Control) Order, 2016 (for short 'Order, 2016') and not diverted the PDS stocks to black market to get illegal profit, and the learned Sessions Judge ought to have set aside the order of respondent No.1. He would

further submit that broken rice does not come under Clause 17 (d) or (e) of the Order, 2016 or any section or provision of the Essential Commodities Act, 1955 (for short 'Act, 1955') or any connected order under Section 3 of the Act, 1955 and, therefore, the order is liable to be set aside. He would also submit that an incorrect report was submitted by respondent No.2, basing on which, 100% confiscation was ordered by respondent No.1, which was, somehow, wrongly affirmed by the learned Sessions Judge and sought to set aside the same.

4. Per contra, the learned Special Assistant Public Prosecutor would submit that the very explanation offered by the revision petitioner on the date of inspection is sufficient to justify the confiscation of 100% of PDS rice and only at the stage of arguments before respondent No.1, deviation was made inventing an incorrect story and, thus, supports the order passed by respondent No.1.

5. A perusal of the order passed by respondent No.1 would clearly show that the revision petitioner made his explanation where he clearly confessed that he was procuring rice meant for public distribution system from the local B.P.L. cardholders at the rate of Rs.10/- per kg. and converting them into broken rice for selling the same at the rate of Rs.12/- per kg. In fact, the lorry was caught with broken rice while it was being diverted at Gurazala Cross-roads of Shaligouraram Mandal and the revision petitioner was apprehended.

Therefore, the stand taken by the learned Sessions Judge and before this Court that he does not fall within the purview of any conditions of the Order, 2016 and broken rice does not come under any of the Clauses 17(d) and (e) of Order, 2016 or any Section or provision of Act, 1955 is unjustified, when it is clear that PDS rice was purchased by the revision petitioner and he got converted them into broken rice as per his explanation at the inception stage. It is also clear from the fact-situation that only to get himself wriggle out from the statutory contraventions he got converted into broken rice having purchased the same from local BPL cardholders at the rate of Rs.10/- per kg. and to sell them at Rs.12/- per kg., thereby it cannot be said that there was no contravention at all, and by changing the nature of rice into broken rice, the *mala fide* intention of getting over criminal liability in case he is caught is clear. In the said circumstances, the confiscation order passed by respondent No.1 and as affirmed by the learned Sessions Judge cannot be faulted.

6. Therefore, confirming the judgment, dated 25.10.2017, passed by the learned Principal Sessions Judge, Nalgonda, in Criminal Appeal No.28 of 2017, 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