

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 475 of 2005

Order reserved on 14.01.2019

Order delivered on 18.09.2019

Pramod Sharma, S/o. Madan Lal Sharma, Aged about 30 years,
Owner of Roller and Tanker, R/o. Gundardehi, Durg District Durg
(C.G.)

---- **Applicant**

Versus

State of Chhattisgarh through the Collector Durg, District Durg
(C.G.)

---- **Respondent**

For Applicant : Mr. Rajendra Tripathi, Advocate
For Respondent : Ms. M. Asha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

A complaint was made to the Food Department, Durg to the effect that the food-grain which was to be distributed to labourers in lieu of payment of wages under the relief work but the said food-grain was not distributed to relief workers and was kept in Gayatri Rice Mill at Durg. On 04.04.2003 officers of the Food Department made inspection in Gayatri Rice Mill where they found 400 quintals of rice, 80.50 quintals of paddy and 413.3 quintals of broken rice of the owner of mill. In addition to that, the officers of Food Department also found 358 bags (178.65 quintals) of rice in the same premises but no document

regarding the said rice was produced. In the enquiry, it was told by Ramesh Chandra Mittal- Partner of the mill that the said rice belonged to Baba Tiwari of Ganjpara, Durg and with his permission it was kept in his mill. During investigation, it came to the knowledge of officers that 358 bags of rice was issued to the applicant by Sub Divisional Officer, Public Works Department, Gundardehi for making payment in lieu of work being done by the labourers in relief work. It was alleged that 358 bags of rice was given to the applicant by Sub Divisional Officer, Public Works Department for the payment towards the charges incurred for the roller and tanker pressed into service by him. It was further alleged that instead of distributing the rice, it was stashed by the applicant in Gayatri Rice Mill for the purpose of black marketing. The officers of Food Department seized 358 bags of rice and handed over the same to Chhattisgarh Civil Supplies Corporation Durg on supurdnama.

2. The Collector, Durg noticed several irregularities being committed by the applicant and thus issued a show cause notice to him on 27.05.2003. In reply to the show cause notice dated 17.06.2003 the applicant stated before the Collector Durg, that on account of non availability of means of transportation, he could not carry the said rice to its destination and was compelled to keep it in the Gayatri Rice Mill temporarily. However, after affording due opportunity to the parties, the Collector, came to the conclusion that the rice, which was seized by the Officers of

Food Department, was meant for distribution under the scheme of Public Distribution System. Being this, the Collector ordered for confiscation of the rice under Section 6A of the Essential Commodities Act against the applicant on 01.09.2003 which on appeal received affirmation by the order impugned in this revision petition dated 20.09.2005.

2. Learned counsel for the applicant submits that the order of confiscation passed by the Collector which has been subsequently affirmed by the Sessions Judge, Durg suffers from countless irregularities and is contrary to the material on record. He submits that the order passed by the Collector for confiscation of rice under Section 6 of Essential Commodities Act cannot be sustained in the eye of law as there is no evidence of independent witnesses which could establish the involvement of the accused/applicant in misappropriation of the rice meant to be distributed to the labourers under the PDS. He further submits that the Court below has committed an error of law by not appreciating the provisions enshrined in the Essential Commodities Act, therefore, the proceedings initiated against the applicant may be dropped.

4. State counsel however, supports the findings recorded by the both the Courts below.

5. From the record it is clear that the 358 bags common standard rice was seized by the officers of Food Department, Durg from Gyatri Rice Mill where the accused/applicant is said to

have kept in connivance with one of his acquaintance Baba Tiwari @ Alok Tiwari. For this storage of the rice the accused/applicant has assigned the reason that as he was not having any means of transport for carrying the rice to weighment station (Dharamkata) and further that he was also lacking sufficient time, the rice was stored in the aforesaid Gayatri Rice Mill. This defence taken by the applicant does not appear to be *bona-fide* for the reason that if the matador hired by the applicant could take the rice upto the rice mill from where it was seized, the same matador could also have been used for transporting the same up to his own premises at Gundardehi. To the utter surprise of this Court, the defence taken by the accused/applicant does not get corroboration from the statement of Baba Tiwari with whose permission the accused/applicant is said to have kept the rice in the Gayatri Rice Mill. Even assuming that the applicant was not having sufficient means for transportation of the rice on that very day, he could at least have apprised the concerned food officer of his inability but the record does not speak anything like this. Over all act on the part of the applicant in keeping the huge quantity of rice referred to above without any intimation to the police or even the food inspector makes this Court arrive at the only conclusion that he had kept the rice in the Gayatri Rice Mill for his own benefit by misappropriating the same.

6. The view taken by the Collector which has subsequently been maintained by the Sessions Judge vide order impugned does not appear to suffer from any illegality or infirmity for the reason that the entire conclusion drawn by both the Courts is based on the proper appreciation of the evidence on record. Therefore, no interference with the order under challenge appears to be necessary in this revision. It is accordingly maintained by dismissing the revision in hand.

Sd/-
(Vimla Singh Kapoor)
JUDGE

Jyotishi/ Santosh