

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.06.2019
CORAM
THE HONOURABLE MR. JUSTICE P.N.PRAKASH
Crl.R.C.No.111 of 2016

P.Gajendran
Son of Mr.Ponnambalam

... Petitioner

-Vs-

1. The Dy. Commissioner of Civil
Supplies, City-North
(Consumer Protection Department)
Ezhilagam Annexe Building
4th Floor, Chepauk, Chennai-5.

2. The Inspector of Police
Civil Supplies CID
Chennai-101.

... Respondents

Criminal Revision Petition filed under section 397 r/w 401 of the Code of Criminal Procedure to call for the records on the file of the 1st respondent in Proceedings in Na.Da.No.N.3/261/2006 dated 21.06.2006 and confirmed in Criminal Appeal No.266/2006 by the Principal Judge, Chennai and set aside the said proceedings of the 1st respondent.

For Petitioner : Mr.V.Balakrishnana
For Respondent : Mrs.Kritika Kamal.P
Government Advocate

O R D E R

This Criminal Revision Petition has been filed to call for the records and set aside the Proceedings of 1st respondent dated 21.06.2006 in Na.Da.No.N.3/261/2006, which was confirmed on 27.10.2015 by the Principal Judge, Chennai, in Criminal Appeal No.266/2006.

2. On 12.01.2006, the Officers of CSCID, Chennai, intercepted the lorry bearing Registration No.TN-28-F-1681 loaded with PDS rice. On seeing the police, the driver and another person, who was in the lorry fled from the lorry. The police officials checked the lorry and found that it contained 340 bags of rice (16760 Kgs) comprising 337 bags of boiled rice and 3 bags of raw rice. During the course of investigation, it came to light that the lorry belonged to one R.D.Velu and PDS

rice was being transported by one P.Gajendran, the revision petitioner herein. The police registered a regular case in Crime No.30 of 2006 on 10.01.2006 against P.Gajendran, the petitioner herein and one Kannan, the driver of the lorry, for the offence under Section 6(4) of TNSC (RDCS) Order 1982 r/w. 7 (1)(a)(ii) of the Essential Commodities Act, 1955. The PDS rice was sold and the sale amount was deposited with the State Bank of India, Thousand Light Branch, Chennai. The Deputy Commissioner (City) North (Civil Supplies and Consumer Protection Department), Chennai, issued a show cause notice under Section 6-B of the Essential Commodities Act, to the petitioner and R.D.Velu, owner of the vehicle. The petitioner submitted a written explanation dated 27.03.2006, in which, he has stated that he is a wholesale rice merchant and commission agent and that he is carrying on business at Old Door No.1/1874, New Door No.1/2778, Thiruvalluvar Main Road, Gandhi Nagar, Chennai-52 and that he had purchased 340 bags of rice from Sri Krishna Stores, Paddy and Rice Whole Sale Rice Merchant, Srivilliputhur, under Cash Bill No.10 dated 09.01.2006 and transported the rice to Redhills. After considering the evidence produced by the petitioner, the Adjudicating Authority passed the order dated 21.06.2006, rejecting the explanation submitted by the petitioner and confiscated the rice to the State. Challenging the confiscation order, the petitioner filed Criminal Appeal No.266 of 2006 before the Court of Sessions, Chennai, which was dismissed on 27.10.2015. Challenging the orders passed by the Adjudicating Authority and the Appellate Authority, the present revision petition has been filed.

3. This Court carefully perused the impugned orders and connected records. Before advertng to the rival submissions, it may be necessary to state here that, while exercising revisional powers under Section 397 r/w 401 Cr.P.C., this Court is required to find out, if there is any illegality or impropriety in the findings of the Adjudicating Authority and the appellate Court warranting interference and it is not open to this Court to exercise the revisional power as a second appellate forum. In this context, it is profitable to allude to the following paragraphs in the judgment of the Supreme Court in State of Maharashtra Vs. Jagmohan Singh Kuldip Singh Anand and Others, etc. [(2004) 7 SCC 659]

"22.The revisional court is empowered to exercise all the powers conferred on the appellate court by virtue of the provisions contained in Section 401 CrPC. Section 401 CrPC is a provision enabling the High Court to exercise all powers of an appellate court, if necessary, in aid of power of superintendence or supervision as a part of power of

revision conferred on the High Court or the Sessions Court. Section 397 CrPC confers power on the High Court or Sessions Court, as the case may be,

“for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior court”.

It is for the above purpose, if necessary, the High Court or the Sessions Court can exercise all appellate powers. Section 401 CrPC conferring powers of an appellate court on the revisional court is with the above limited purpose. The provisions contained in Section 395 to Section 401 CrPC, read together, do not indicate that the revisional power of the High Court can be exercised as a second appellate power.

(emphasis supplied)

23. On this aspect, it is sufficient to refer to and rely on the decision of this Court in *Duli Chand v. Delhi Admn.* [(1975) 4 SCC 649 : 1975 SCC (Cri) 663 : AIR 1975 SC 1960] in which it is observed thus: (SCC p. 651, para 5)

“The High Court in revision was exercising supervisory jurisdiction of a restricted nature and, therefore, it would have been justified in refusing to reappreciate the evidence for the purposes of determining whether the concurrent finding of fact reached by the learned Magistrate and the learned Additional Sessions Judge was correct. But even so, the High Court reviewed the evidence presumably for the purpose of satisfying itself that there was evidence in support of the finding of fact reached by the two subordinate courts and that the finding of fact was not unreasonable or perverse.”

4. It is the case of the petitioner that he procured the rice from Sri Krishna Stores, Paddy and Rice Whole Sale Rice Merchant, Srivilliputhur, under Cash Bill No.10 dated 09.01.2006. However, on perusal of the cash bill, it is seen that the bill has been given in the name of Sri Murugan Rice Mandi. The petitioner has not produced any documents to show that he is the owner of Sri Murugan Rice Mandi. That apart, the bill does not bear CST number and licence number of the seller and the purchaser. The petitioner had not produced the procurement register and other records to show that the rice was purchased by him from Sri Krishna Stores, Paddy and Rice Whole Sale Rice Merchant, Srivilliputhur.

5. In such view of the matter, this Court does not find any infirmity in the orders passed by the Adjudicating Authority and the Appellate Authority warranting interference. In the result, this Criminal Revision Petition is dismissed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Judge,
City Civil Court, Chennai.
2. The Dy. Commissioner of Civil
Supplies, City-North
(Consumer Protection Department)
Ezhilagam Annexe Building
4th Floor, Chepauk, Chennai-5.
3. The Inspector of Police
Civil Supplies CID
Chennai-101.
4. The Public Prosecutor,
High Court, Madras.

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