



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.09.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

Crl.O.P. (MD)No.7816 of 2014

and

M.P. (MD)Nos.1 and 2 of 2014

P.Amuthan

... Petitioner/2nd Accused

Vs.

Fertilizer Inspector,
Office of Assistant Director of Agriculture,
Sivakasi Block,
Sivakasi - 626 123,
Virudhunagar District.

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records relating to the proceedings in C.C.No.30 of 2014, now pending on the file of the Special Court under the Essential Commodities Act, Judicial Magistrate No.I, Virudhunagar, and to quash the same.

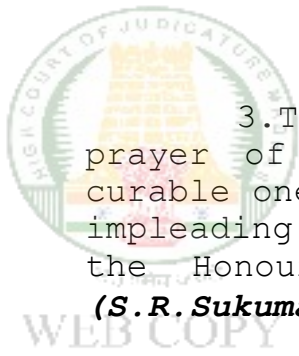
For Petitioner : Mrs.P.Jessi Jeeva Priya
for Mr.G.Aravindhan

For Respondent : Mr.A.Robinson
Govt. Advocate (Crl.Side)

O R D E R

The respondent herein instituted C.C.No.13 of 2014, on the file of the learned Judicial Magistrate No.I, Virudhunagar Special Court under the Essential Commodities Act, against the dealer and the petitioner herein. To quash the same, this criminal original petition has been filed.

2.The only contention taken by the learned counsel appearing for the petitioner is that he was the designated officer of the manufacturer and that the petitioner's liability is only in a vicarious capacity and that without impleading the company, the petitioner alone cannot be prosecuted. In this regard, the petitioner counsel placed reliance on the decision of the Honourable Supreme Court reported in [(2012) 5 SCC 661 (Aneeta Hada Vs Godfather Travel & Tours (P) Ltd.,)]



3.The learned Government Advocate (Crl. Side) opposed the prayer of the petitioner by pointing out that the defect is a curable one and that complainant can as well file an application for impleading the company also. He placed reliance on the decision of the Honourable Supreme Court reported in **[(2015) 9 SCC 609 (S.R.Sukumar Vs.S.Sunaad Raghuram)]**

4.Though the contention of the learned Government Advocate (Crl. Side) is sound, the position that obtains as on date is that no such application has been taken out. Therefore, I have no other option but to apply the ratio laid down in **Aneeta Hada (supra)**. In this view of the matter, the impugned prosecution is quashed insofar as this petitioner is concerned and the criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To:

- 1.The Special Court under the Essential Commodities Act,
Judicial Magistrate No.I, Virudhunagar.
- 2.Fertilizer Inspector,
Office of Assistant Director of Agriculture,
Sivakasi Block,
Sivakasi - 626 123,
Virudhunagar District.

+1 CC to M/s.P.JESSI JEEVA PRIYA, Advocate (SR-86195[F] dated 10/09/2019)

**Crl.O.P. (MD)No.7816 of
2014
10.09.2019
(3/3)**

ias
JM/03.10.2019/2P/4C