



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 11.11.2019

Delivered on : 22.11.2019

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Crl.R.C(MD)No.89 of 2015

and

M.P(MD).No.1 of 2015

Sangayya S.Vastrad

: Petitioner/Accused
Vs.

Trichy Market Committee,
rep., by Superintendent of Market,
Regulated Market, No.199, Madurai Road,
Trichy-8. :Respondent/Complainant

PRAYER: Revision Case filed under Section 397 r/w 401 Code of Criminal Procedure, to call for the records and set aside the orders passed in Criminal Appeal in Crl.A.No.140 of 2014 dated 17.12.2014 on the file of the Sessions Judge, Tiruchirappalli confirming the order passed in STC.No.779 of 2013 dated 12.09.2014 on the file of the Judicial Magistrate No.V, Tiruchirappalli.

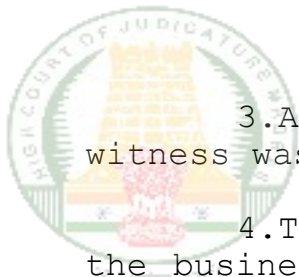
For Petitioner : Mr.G.Sankaran
For Respondent : Mr.A.Muthukaruppan
Additional Government Pleader

ORDER

The present revision petition has been filed against the order passed by the learned Sessions Judge, Tiruchirappalli Division, dated 17.12.2014 in Crl.A.No.140 of 2014 confirming the conviction and sentence passed against the petitioner/accused on 12.09.2014 in STC.No.779 of 2013 by the learned Judicial Magistrate No.V, Tiruchirappalli.

2.The facts, which gave rise to the filing of the present revision petition, are briefly stated herein.

The petitioner/accused was dealing with coconut wholesale business at Tiruchirappalli. According to the respondent, the sale of coconut was regulated by the provisions of Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987. According to the respondent, the petitioner obtained license earlier to deal with his business of selling watery coconuts but failed to renew license for a period of three years from 01.04.2012 by paying prescribed fee for the renewal. According to the respondent, despite notice being served on the petitioner/accused, he failed to renew the license and therefore, action was taken under the provisions of the Regulation Act, 1987.

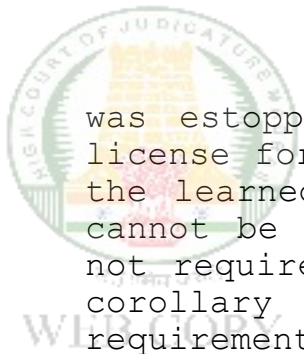


3.After registration of the case in STC No.779 of 2013, one witness was examined and six documents were marked.

4.The learned Magistrate, who dealt with the case, held that the business dealing with the watery coconut was covered under the provisions of the Regulation Act, after the amendment to the regulation in 2010, which provided for obtaining license by persons dealing with the business of watery coconut. However, the case of the petitioner before the trial Court was that the selling of watery coconut was exempted by the Regulation Act and therefore, there was no need to take any license/permission from the authority dealing with the said business. However, the trial Court overruled the objection and held that the petitioner himself had obtained license earlier for the period of three years to deal with business of selling watery coconuts, but however, failed to renew license from 01.04.2012 for a period of three years by not paying the prescribed fee. By his own conduct the petitioner demonstrated that there was need for requirement of taking license for dealing with the business. Therefore, he cannot be allowed to contend that there was no requirement to obtain license dealing with business of selling watery coconut. Ultimately, the Court sentenced the petitioner to pay a fine of Rs.500/- and in default, to undergo Simple Imprisonment for one week and also directed the petitioner/accused to pay license fee of Rs.300/- and Rs.700/- as expenses to the complainant. The said order passed by the trial Court was subject matter of challenge before the appellate Court in Crl.A.No.140 of 2014.

5.In the appeal, several grounds were raised assailing the order of the trial Court. It was particularly contended before the appellate Court by the petitioner/accused that there was no amendment to the Act. It was merely a circular issued to bring the business of watery coconut within the ambit of the Regulation Act 1987 and no procedure was followed for amending the statute. Before the appellate Court, it was contended by the petitioner that G.O.Ms.No.222, dated 01.02.2010 was only an expression of intention to amend the Act and there was no actual amendment to the act. Therefore, the intention of the amendment cannot be relied upon to enforce the same against the petitioner during the relevant time. However, the appellate Court discountenanced the plea of the petitioner/accused and confirmed the order passed by the trial Court on the same reason as adopted by the trial Court. The said order confirming the trial Court's decision is the subject matter of present revision petition.

6.Mr.G.Sankaran, learned counsel appearing for the petitioner would strenuously contend that the basis of the conviction recorded by the trial Court is completely erroneous and misunderstanding of the provisions of law. The learned trial Court has misdirected by convicting the petitioner herein on the sole reason that the petitioner himself had obtained license earlier and therefore, he



was estopped from contending that he was not required to obtain license for dealing with the watery coconut business. According to the learned counsel, learned Judge failed to appreciate that there cannot be any estoppel against the statute. Once the statute did not require a license for selling of watery coconuts, the natural corollary of such non-inclusion would mean that there was no requirement to obtain license for selling and dealing with watery coconut. The so called amendment brought about by G.O.Ms.No.222, was arbitrarily acted upon for the above said reason, since there was merely intention by the Government to amend the Act.

7.Moreover, the learned counsel would also rely on a recent decision of this Court rendered in Crl.O.P(MD)Nos.5027, 5028 and 15598 of 2013 dated 16.04.2018, wherein the learned Judge of this Court has held that there is no need for any trader to take license for trading in watery coconut and by holding as such the learned Judge has quashed all the complaints against the petitioners therein and allowed all the criminal original petitions. Therefore, he would submit that in all force, the present complaint cannot be countenanced either in law or on facts.

8.When the matter is taken up for hearing today, the learned counsel also brought to the knowledge of this Court by producing a copy of the extract dated 11.01.2019 issued by the Government of Tamil Nadu indicating the amendment to the Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987 and amendment reads as under:-

“In the said Schedule, in column (2),-

(1) against the entry, “III. Oil seeds” in column (1), the existing item “5. Coconut in all forms except Tender Coconut” shall be omitted.

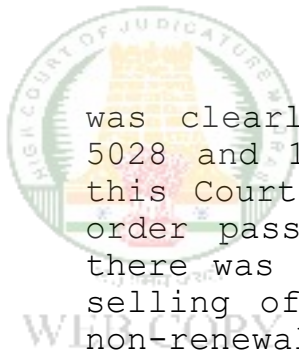
(2) against the entry “XV. Miscellaneous”, in column (1) after the item 4. Silk cotton in all form, the following item shall be added, namely:-

“5. Coconut in all forms except Tender Coconut”.

9.The learned counsel would submit that the amendment had happened only in 2019 to the principal Act and therefore, in the absence of such amendment earlier, there was no requirement at all for taking any license for dealing with watery coconut business.

10.Heard Mr.A.Muthukaruppan, learned Additional Government Pleader appearing for the respondent.

11.In view of the above narrative, this Court is convinced that the complaint filed by the respondent cannot be countenanced either in law or on facts. As per the provisions of the Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987 as it stood originally before the present amendment came in 2019, there was absolutely no requirement at all for obtaining license for dealing of watery coconuts for public consumption. This



was clearly reiterated in the order made in Crl.O.P(MD)Nos.5027, 5028 and 15598 of 2013 dated 16.04.2018 by the learned Judge of this Court. In fact, the learned Judge has referred to the earlier order passed by this Court in S.A(MD)No.645 of 2008 holding that there was no requirement for obtaining license for dealing with and selling of watery coconut. Therefore, it is very clear that the non-renewal of license by the petitioner herein cannot be held against him, simply because the petitioner has chosen to obtain license earlier.

12.As rightly contended by the learned counsel for the petitioner that there cannot be an estoppel against the established procedure contained in the statute. Therefore, merely because of the fact that the petitioner had obtained license earlier cannot be a ground to convict the petitioner when he failed to renew the license. When the Act did not contemplate obtaining license for dealing with selling of watery coconut, the respondent cannot insist the petitioner to get license. Therefore, this Court is of the considered view that the petition is to be allowed.

13.For the above said reasons, the order passed in Crl.A.No.140 of 2014 dated 17.12.2014 on the file of the Sessions Judge, Tiruchirapalli, confirming the order passed in STC.No.779 of 2013 dated 12.09.2014 on the file of the Judicial Magistrate No.V, Tiruchirappalli, is set aside.

14.Accordingly, this Criminal Revision Case is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS)

skn

To

1.The Principal District and Sessions Judge,
Tiruchirappalli.

2.The Judicial Magistrate No.V, Trichy.

+1 CC to M/s.F.DEEPAK, Advocate (SR-100400[F] dated 22/11/2019)

Crl.R.C(MD)No.89 of 2015

and

M.P(MD) .No.1 of 2015

22.11.2019

_KK/SAR/05.12.2019/4P-4C/

<https://hcservices.ecourts.gov.in/hcservices/>