



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE OF RESERVING ORDER
29.06.2021

DATE OF PRONOUNCING ORDER
30.09.2021

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRL.R.C.NO.602 OF 2015

AND

M.P.NO.2 OF 2015

G. Loganathan

.. Petitioner

Vs.

State by

1. The District Revenue Officer,
Coimbatore, Coimbatore District.

2. The Inspector of Police,
Civil Supplies CID, Pollachi,
Coimbatore District.
Crime No.323/2013.

.. Respondents

PRAYER :

Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to call for the entire records insofar relates to order passed in C.A.No.101 of 2014, dated 23.12.2014 on the file of First Additional District and Sessions Court, Coimbatore whereby, modifying the order passed by the District Revenue Officer, Coimbatore in his proceedings No.Na.Ka.No.3290/2013/Ki-3, dated 21.06.2014 and set aside the same.

For Petitioner : Mr. C. Prakasam

For Respondents: Mr. R. Vinoth Raja,
Government Advocate (Crl.side)

O R D E R

The matter is heard through "Video Conference".

2. The owner of the confiscated lorry is the revision petitioner herein.



3. This criminal revision case is filed against the order passed by the first Additional District and Sessions Judge, Coimbatore made in C.A.No.101 of 2014, dated 23.12.2014 whereby, modified the order passed by the District Revenue Officer, Coimbatore in his proceedings Na.Ka.3290/2013/ki-3, dated 21.06.2014 whereby, reduced the fine amount from Rs.11 lakhs to Rs.9 lakhs, on the lorry (confiscated vehicle).

4. The brief facts of the case is that,

4(i) the petitioner is owner of the lorry bearing Registration No.TN-63-AX-6999 and same was entrusted to his driver with strict instructions to ply the lorry within, four corner of law. While so, on 15.09.2013, one Abraham, who is running modern rice mill in the name and style of Madha & Co. Pattukottai he engaged the appellant's lorry for transporting 840 bags of open market rice each 50kg from Pattukottai to Kerala under cover of valid bill Nos.639, 640, 642 and 672, on its way, the said lorry was seized by the second respondent, even though the driver produced the records inspite of it, the second respondent seized lorry and goods.

4(ii) When the said trader/rice mill owner was engaged the lorry that too, without knowledge of the petitioner, the driver was accepted to transport the said rice bags and he did not obtained any prior permission from the lorry owner and also the driver suo-moto accepted for hire. The respondent-police registered a case against the said lorry and petitioner/the lorry owner and others under Clause 6(4) of the TNSC (RDSCS) Order 1982 r/w. Section 7(1) (a) (ii) of E.C. Act, 1955, on the ground that seized stock of rice are PDS rice.

5. Records reveals that after seizure of the lorry and goods, the second respondent obtained lab test report from the Tamil Nadu Civil Supplies Corporation as if, the seized rice are PDS rice, since the Tamil Nadu Civil Supplies Corporation officials always without analysing the rice, they used to issue quality certificate as if, seized rice are PDS rice, since the said officials always obeyed the orders of the Civil Supplies CID Police.

6. After knowing the above said facts, the rice owner made an application before the first respondent and the second respondent to send rice samples which are seized from petitioner's lorry to Central Government Lab viz., King Institute, Guindy, Chennai, but they have not come forward to



send the samples King Institute, hence, he approached this Court and filed writ petition in W.P.No.27313 of 2013, praying for to send samples to King Institute for analyse. This Hon'ble Court was pleased passed orders whereby directing the respondents to send rice samples to the King Institute, accordingly, the respondents sent rice samples and submitted report before this Court as if, the seized rice are "fit for Trade/Commercial sale" and indicated it is not possible for the analyse to say as to whether, it was PDS rice.

7. Records reveals that since ten members of the police team seized lorry and arrested the drivers, but he sent report that the drivers ran away and no bills were available in the lorry.

8. Heard, the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the respondent.

9. The quantity of seized bags are 840 bags of rice each of 50 crores and it was alleged to be PDS rice. In the connected writ petition filed by the very same rice owner in W.P.No.27313/2013, with regard to the nature of the rice King Institute, Guindy, Chennai, has given certificate. The lorry was ordered to be confiscated, in view of the offence committed in the lorry under Clause 6(4) of the TNSC (RDSCS) Order 1982 r/w. Section 7(1) (a) (ii) of E.C. Act, 1955. Admittedly, the trip sheet was not produced before the confiscating authority.

10. In the enquiry, initiated under Clause 6(A) of the Act and hence, the confiscating authority having found various deformities has come to the conclusion that in the absence of any trip sheet regarding 840 bags of rice while, the trip sheet is only for 480 bags of rice. As ordered confiscation, the Hon'ble Supreme Court in the decision reported in CDJ 2000 SC 128 is equivalent to 2000 (3) SCC 306. Deputy Commissioner Dakshina Kannada District Vs. Rudolph Fernandes (2000) 3 SCC 306 = CDJ 2000 SC 128), has upheld that both the rice and lorry to be confiscated. On appeal, the learned Principal Sessions Judge has confirmed the order of confiscation. However, reduced the market price of lorry from Rs.17,50,000/- to Rs.9,00,000/-.

11. Heard, the learned counsel for the revision petitioner, regarding value of the lorry. The lorry was said to have been registered in the year 2012 and said to have been involved in the year 2013 itself and the confiscation order was passed on



2014.

12. Taking into consideration, the entire facts of the circumstances, the confiscation order and the fine imposed in the alternate of confiscation of the vehicle is reduced to Rs.5 lakh. With these modification, the criminal revision case is allowed only to the limited extent. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AT

To

1. The District Revenue Officer,
Coimbatore, Coimbatore District.
2. The Inspector of Police,
Civil Supplies CID, Pollachi,
Coimbatore District.
3. The First Additional District and Sessions Court,
Coimbatore.
4. The District Revenue Officer,
Coimbatore.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.51449

Cr1.R.C.No.602 of 2015 and
M.P.No.2 of 2015

PM(CO)
PM/11/10/2021