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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.06.2021

PRONOUNCED ON : 27.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Cr1.R.C.No.787 of 2015

M.V.Samy

...Petitioner/Appellant

Vs.

1.The Deputy Commissioner of
Civil Supplies (North) City and
Consume Protection Department,
Chepauk,
Chennai -5.

2.The Inspector of Police,
Civil Supplies C.I.D.,
North Unit,
Chennai - 10.

...Respondents/Respondents

Prayer: This Criminal Revision Case has been filed under Section 397 & 401 Cr.P.C., to call for the records on the file of the first respondent in this proceedings Na.Ka.N3/4220/2000 dated 02.11.2002 pursuant to the Appeal No.144/2003 on the file of the learned Principal Judge, City Civil Court, Chennai Dated 20.03.2015 and to set aside the same.

For Petitioner : Mr.Liagat Ali

For Respondents: Mr.R.Vinoth Raja

Government Advocate (Cr1.Side)

O R D E R

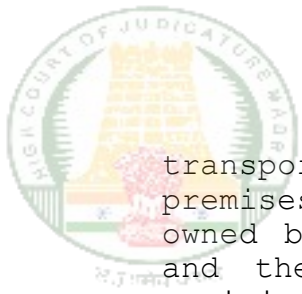
(The case has been heard through Video Conference)

The appellant before the authority is the revision petitioner herein.

2.The brief facts leading to the file of this Criminal Revision Case are as follows:

(a).The revision petitioner is a wholesale dealer possessing licence bearing No.493/84-85 issued under the TNEA (RT) Order 1984 and carrying on business as per the conditions of the licence without any adverse remarks.

(b).The revision petitioner on 19.07.2001 had purchased 14 bags of rice each 75 kgs, from one wholesale dealer, M/s.M.G.P Rice Traders No.2, G.N.T., Road, Red Hills, Chennai-52 and



transported the said rice bags from Red Hills to his business premises in a Mini Lorry bearing registration No. TN01M 6920 owned by him and the Mini lorry arrived to his business place and the driver stopped the lorry near to the shop of the revision petitioner herein at Wall Tax Road and went for lunch. In the absence of the driver, the second respondent herein seized the lorry and registered a case for the contravention under Clause 6(1) and 6(4) of the Tamil Nadu Schedule Commodities (RDCS) Order 1982 read with 7(1) (a)(ii) of the Essential commodities Act, 1955, alleging that the rice found in the lorry belonged to P.D.S rice and arrested the driver and subsequently the revision petitioner was arrested by the second respondent and remanded to Judicial custody on 20.07.2000. While, the revision petitioner was in judicial custody, he was detained under the Prevention of the Black Marketing Act by the Commissioner of Police, Greater Chennai. Later, this Court has quashed the detention order and released the revision petitioner from the Judicial custody. The revision petitioner's mini lorry was released on furnishing cash security for a sum of Rs.15,000/- to the first respondent and no order was passed for release of the rice bags.

(c).The first respondent had initiated proceedings under the Essential Commodities Act and issued show cause notice to the revision petitioner herein for the contraventions under Clause 6 (1) and 6(4) of the Tamil Nadu Schedule Commodities (RDCS) Order 1982. Thereafter, the revision petitioner has denied those contraventions by filing a detail explanation and also contended that no samples were drawn and the sample packet was not served even though the revision petitioner's signature was obtained by the Inspector of Police, Civil Supplies CID and the analyst copy was not served as per the mandatory instructions of the commissioner of Civil Supplies, dated 21.01.1988. Further, the first respondent has failed to consider the above aspect and ordered confiscation of 14 bags of rice and imposed a sum of Rs.15,000/- as fine in lieu of the confiscation of the Mini Lorry.

(d)Aggrieved by the order of the first respondent herein, the revision petitioner herein has filed an appeal under Section 6-C of the Essential Commodities Act before the Principal Sessions Judge, City Civil Court, Chennai, in Criminal Appeal No.144 of 2003, praying to set aside the order of the first respondent in proceedings Na.Ka.N3/4228/2000, dated 02.11.2002. The learned Judge by an order dated 20.03.2015 has confirmed the order of confiscation of 14 bags of rice and reduced the fine amount from Rs.15,000/- to Rs.10,000/-. As against same order of the learned Principal Sessions Judge, the revision petitioner herein has preferred this Criminal Revision Case before this Court.



3. Heard both the learned counsels and perused the materials placed on record.

4. The learned counsel for the revision petitioner would contend that the penalty imposed on the revision petitioner is excessive, exorbitant and the same is against the provisions of Essential Commodities Act 1955 and further he would also challenge the confiscation order.

5. On a perusal of the records, it reveals that show cause notice has been issued under Section 6(b) of Essential Commodities Act to the revision petitioner herein/owner of the lorry and one Mariappan. The revision petitioner herein has appeared before the first respondent and as per records, the statement is to the effect that he has purchased the lorry and consequently leased the lorry to one Murugesan in the month of December 1999 and he prayed for release of the lorry. The Regional Laboratory had issued analysis report to that effect that the confiscated rice was PDS rice. Since, the revision petitioner claimed ownership of the vehicle alone, he subsequently claimed for ownership over the rice considering the bill submitted by him for procurement of rice from the open market, the first respondent herein has come to the conclusion that there has been a clear contravention of the provisions of Tamil Nadu Schedule Commodities (Regulation of Distribution by Card System) Order, 1982 and passed an order of confiscating the rice and imposed a fine of Rs.15,000/- in lieu of the confiscation of the vehicle. As against that, revision petitioner herein has preferred criminal appeal before the learned Principal Sessions Judge, City Civil Court, Chennai. The lorry in question belongs to the revision petitioner herein was seized with 14 boxes of rice in violation of Clause 6(1) and (4) of the TNSC(RDCS) Order, 1982.

6. Admittedly, the subject matter namely rice in question is the essential commodity. Based upon the analysis report issued by the Regional Laboratory that the rice seized was PDS rice, which meant for public distribution and the owner of the rice failed to establish that he procured the rice from the open market, the first respondent herein has come to the conclusion that there is a contravention of the provisions of TNSC(RDCS) Order, 1982.

7. The records viz., analytical report and the statement by the revision petitioner herein, reveals that the transported rice (14 bags of rice) was found to be PDS rice and hence, the order passed by the authority of confiscation does not suffer from any perversity in finding or illegality. As to the factum of seizure the fine imposed by the authority was Rs.15,000/- and it was reduced to Rs.10,000/- by appellate authority.



8. Taking note of the factors touching upon the issue, this Court is of the considered view that fine may be reduced to Rs.7,000/- from Rs.10,000/-. With this modification, Criminal Revision Case stands allowed to the limited extent as indicated above.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To:

1. The Principal Judge,
City Civil Court, Chennai.
2. The Deputy Commissioner of
Civil Supplies (North) City and
Consume Protection Department,
Chepauk, Chennai -5.
3. The Inspector of Police,
Civil Supplies C.I.D.,
North Unit, Chennai - 10
4. The Public Prosecutor
High Court, Madras 104.
5. The Section Officer
Criminal Section
High Court, Madras 104.

Cr1.R.C.No.787 of 2015

GJ(CO)
SP(22/10/2021)