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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.805 of 2015

1.Sri Balaji Rice Mill,
represented by its Proprietor,
Mr.G.Padmanabhan

2.C.N.Rama Rao ... Petitioners/Appellants 1 & 2

Vs.

1.The Deputy Commissioner of Civil Supplies,
City North & Consumer Protection Department,
Ezhilagam Annex Building, 4th Floor, Chepauk, Chennai - 5.

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

Prayer: This Criminal Revision Case has been filed under Section 397 read with Section 401 of Cr.P.C., to call for the records on the file of the 1st respondent in proceedings Na.ka.No.N3/5039/2004 dated 12.07.2005 confirmed in Cr1.Appeal.No. 432 of 2005 on the file of the learned Principal Judge, City Civil Court, Chennai and to set aside the same.

For Petitioners : No appearance

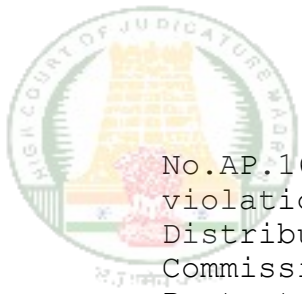
For Respondents : Mr.R.Vinoth Raja
Government Advocate
(Cr1. Side)

O R D E R

(The case has been heard through Video Conference)

The petitioners before the authority are the revision petitioners herein.

2.The revision petitioners herein have filed Criminal Appeal No.432 of 2005 before the City Civil Court, Chennai, against the order of confiscation of rice and fine imposed (Rs.25,000/-) in lieu of confiscation of lorry bearing registration



No.AP.16.TU.2306, involved in transportation of PDS rice in violation of Tamil Nadu Scheduled Commodities (Regulation of Distribution by Card System) Order, 1982, passed by the Deputy Commissioner (City), North, Civil Supplies and Consumer Protection Department, Chennai, in Na.Ka.No.N3/5039/2004, dated 12.07.2005. The learned Judge has dismissed the appeal however, reduced the fine amount from Rs.25,000/- to Rs.15,000/-. Aggrieved against the same the revision petitioners have preferred the present Criminal Revision Case before this Court.

3.Heard the learned Government Advocate (Crl.Side) and perused the materials placed on record.

4.The learned counsel for the revision petitioner would contend that a false case has been foisted against the revision petitioners and that no samples were drawn from the rice mill and further the mahazar copy was not certified. As per the orders of this Court passed in W.P.No.27098 of 2004 rice bags were released on payment of bank guarantee to the tune of Rs.1,40,000/- and the vehicle was released on cash deposit of Rs.25,000/-. After passing final order, the authorities have imposed a sum of Rs.25,000/- in lieu of the confiscation of the lorry.

5.The facts leading to file of the above Criminal Revision Case are:

(a) On 14.09.2004, the rice transported to Yenam was seized by the second respondent and a case was registered in Crime No. 376 of 2004 for the contraventions under Clause 4(1) and 19(1) of Tamil Nadu Essential Trade Articles (Regulation of Trade) Order, 1984 and Clause 6(4) of the TNSC(RDCS) Order, 1982 read with Section 7(1)(a)(ii) of Essential Commodities Act, 1955, by alleging that the rice suspected to be PDS rice and handed over the stocks at TNCSC godown, Anna Nagar, Chennai. The second respondent seized the documents viz., the Credit Bill and G.V.R and by suppressing the above documents, a false case has been foisted and at the time of the seizure, no samples were drawn from the rice seized and mahazar copy was not served as per the mandatory provisions of Section 100(4) of Cr.P.C.

(b).The first revision petitioner, after the seizure, has filed a petition in W.P.No.27098 of 2004, before this Court for release of the rice bags and this Court on 23.09.2004 had ordered for release of the rice bags on furnishing bank guarantee for the value of the rice bags and thereby, the first revision petitioner had obtained bank guarantee from the State bank of India, Kumbakonam for a sum of Rs.1,40,000/- in favour of the first respondent and taken delivery of the rice bags; the second revision petitioner has also filed a petition before the first respondent for release of his lorry and the lorry was



released on cash deposit of Rs.25,000/- in favour of the first respondent herein.

(c).The first respondent had issued show cause notice for the contraventions and to appear for enquiry on 08.10.2004. The revision petitioners have filed petitions before the authority to furnish the copy of the mahazar, seizure report, analyst copy and FIR and the revision petitioner have received the above copies and denied the contraventions under Caluse 6(1) and 6(4) of TNSC (RDCS) Order, 1982, by filing written explanations and prayed to drop the confiscation proceedings against the seized rice and lorry.

(d).Thereafter, the first respondent herein had confiscated the entire rice bags and forfeited the bank guarantee for a sum of Rs.1,40,000/- from SBI, Kumbakonam and imposed a sum of Rs.25,000/- in lieu of confiscation of the lorry on 12.07.2005

6.The case of the department is that the revision petitioners have transported PDS rice, which meant for public distribution and the rice was transported by a lorry, proceed from Kallar to Yenam via Chennai.

7.On a perusal of the records, it reveals that the lorry which is the subject matter belongs to the second revision petitioner herein and it was seized with 340 bags of rice, for the alleged contravention of Clause 6(1) and (4) of TNSC(RDCS) Order, 1982. It is not in dispute that the rice in question is an essential commodity. The first respondent, in the impugned order relied on the analysis report issued by the Regional Laboratory to the effect that the rice was resembling PDS rice and taking into account that the owner of the rice failed to establish that the rice was procured from open marked, has come to the conclusion that there has been contravention of the provisions of TNSC (RDCS) Order 1982.

8.A plea was raised before the authority that driver of the lorry has stated that he had transported the rice on the instructions of the dealer/first revision petitioner herein without consent and knowledge of the owner of the lorry/second revision petitioner herein. He would further said that he had no knowledge that the transported rice was PDS rice.

9.On a perusal of the seizure mahazar, it would show that vehicle and rice was seized in the presence of two witnesses on 14.09.2004. In FIR itself, the Inspector has stated that the rice has been transported without any bill and it was confirmed by the driver. In his explanation, dated 21.03.2005, after a long delay, the driver has stated that the Inspector has seized the documents and the bills kept in the lorry. The first



respondent has also noticed the correction of the registration number of the lorry in the bill.

10. The owner of the rice/first revision petitioner herein in his explanation has stated that the rice transported in the lorry has been purchased by him in the open market and he sold the same under the said credit bill No. 266. However, no document has been shown that the transported rice was procured by the owner in open market.

11. It is clear from the analysis report that the transported rice resembled PDS rice. The owner of the rice has not produced any document that the rice was procured in the open market. Bills were not produced at the time of seizure. All these circumstances would go to show that there has been contravention of the provisions of TNSC (RDCS) Order 1982.

12. Hence, both the authority as well as the appellate authority viz., learned Principal Sessions Judge has held that ingredients of Section 6(b) of the Essential Commodities Act were satisfied and hence, in the absence of any document to show the owner or driver of the vehicle had discharge the ingredients of the Section 6(b) of the Essential Commodities Act, to the satisfaction of the confiscation authority.

13. Hence, taking note of the statement of the Appellant Authority under the Act, has passed the order of confiscation and the same cannot said to be unsustainable. In view of the confiscation the same cannot said to be unsustainable. In lieu of the confiscation of lorry, the confiscated authority imposed a fine of Rs.25,000/- and the same was reduced to Rs.15,000/- as per the Appellate Authority.

14. After going through the facts and circumstances of the case and also long pendency of the case, this Court is of the considered opinion that the amount of fine imposed by confiscated Authority is reduced to Rs.10,000/- from Rs.15,000/-.

15. With the above modification, this Criminal Revision Case is allowed in part only to extent of fine as stated supra.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar



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To:

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- 1.The Principal Judge,
City Civil Court,
Chennai.
- 2.The Deputy Commissioner of Civil Supplies,
City North & Consumer Protect Department,
Ezhilagam Annex Building,
4th Floor, Chepauk, Chennai - 5.
- 3.The Inspector of Police,
Civil Supplies CID, Chennai - 101.
- 4.The Public Prosecutor,
High Court, Chennai.

Cr1.R.C.No.805 of 2015

GJ (CO)
PR (21/10/2021)