



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CrI.R.C.(MD)No.303 of 2022

WEB COPY

The Assistant Commissioner of Customs,
Customs Division,
Trichy.

... Petitioner/Complainant

Vs

Mohamed Eliyas

... Respondent/Sole Accused

Prayer: This Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C., to call for the records of the impugned order dated 21.09.2021 in C.C.No.11/2017 on the file of the of the learned Judicial Magistrate No.1, Tiruchirappalli and set aside the same and by allowing the revision petition

For Petitioner : Mr.Arul Vadivel @ Sekar C

O R D E R

Challenging the order dated 21.09.2021, passed by the learned Judicial Magistrate No.1, Tiruchirappalli in C.C.No.11 of 2017, the petitioner is before this Court with this Criminal Original Petition.

2.The petitioner is the Assistant Commissioner, Customs Division, Trichy. He is being a public servant competent to file a complaint under the Customs Act, 1962. On 24.01.2014, the respondent attempted to smuggle gold biscuits weighing 999.2grams worth about Rs.29,84,610/- (Rupees Twenty Nine Lakhs Eighty Four Thousand Six Hundred and Ten only) into India, with an intention to evade from paying tax. In fact, the respondent accepted his involvement in the commission of offence and his confession statement was recorded on 24.01.2014, as contemplated under Section 108 of the Customs Act, 1962. Subsequently, he was arrested and remanded to judicial custody.

3.In pursuant to the same, the petitioner filed a complaint for the offence under Section 135(1)(b) of Customs Act, 1962, on the file of the learned Judicial Magistrate No.1, Trichy and the same has been taken cognizance in C.C.No.11 of 2017. Since, summon was not served on the respondent, fresh summon was issued as per the order of the learned Magistrate on 29.01.2021. Due to National lock-down for COVID-19 pandemic situation, it was adjourned from time to



time. Fresh summon was ordered to the respondent, as last chance on 21.09.2021. On 21.09.2021, the petitioner was absent and the complaint was dismissed for the reason that the petitioner failed to comply with the earlier direction issued by the Court below.

4.The learned counsel appearing for the petitioner would submit that the petitioner would not pay any fees for service of process. Under Rule 378 of Tamil Nadu Criminal Rules of Practice, no fee shall be levied on process issued upon the complaints by Public Servants. Rule 378 provides exemption for public servants from paying batta for issuing process.

5.In view of the above, this Criminal Revision Case is allowed and the impugned order dated 21.09.2021, passed by the learned Judicial Magistrate No.1, Tiruchirappalli in C.C.No.11 of 2017, is hereby set aside. The Court below is directed to issue fresh summon to the accused and proceed with the trial.

Sd/-

Assistant Registrar(AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PNM

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Judicial Magistrate No.1, Tiruchirappalli

+1 CC to M/s.C.ARUL VADIVEL @ SEKAR, Advocate (SR-14178[F] dated 24/03/2022)

ORDER IN

CrI.R.C. (MD)No.303 of 2022

24.03.2022

nsn(CO)

TR(05.04.2022) 2P 3C