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Crl.A.No.416 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2023

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THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.A.No.416 of 2015

State rep.by
The Public Prosecutor
High Court
Madras.

.. Appellant/Complainant

[Crime No.461/2011 of
CS CID, Krishnagiri]

.VS.

Nallathambi

.... Respondent/Accused

Criminal Appeal filed under Section 378 of the Code of Criminal Procedure, 1973, to set aside the judgment dated 16.10.2014, passed by the Judicial Magistrate Court No.1, Krishnagiri in C.C.No.133/2012.

For Appellant Mr.L.Baskaran
Government Advocate (Crl Side)

For Respondent Mr.S.Marimuthu
for M/s.M.Balaji

JUDGMENT

This criminal appeal has been filed by the State against the judgment and order of acquittal passed by the Court below in



C.C.No.133 of 2012, dated 16.10.2014, acquitting the respondent/accused from charges under Section 6(4) of TNSC [RDCS] Order 1982 r/w Section 7(1)(a)(ii) of the Essential Commodities Act, 1955.

2.The case of the prosecution is that on 13.07.2011 at about 12.00 hrs, a secret information was received by the police and based on the same, PW-1 and PW-2 along with other search party, went to the rice mill owned by the respondent at Karukkansavadi, Kaveripattinam and it was found that 20 bags of PDS rice each containing 50 kgs were hoarded in front of the rice mill. On interrogation, the accused person is said to have confessed that the said rice has been purchased in small quantities from ration cardholders at lower price and they have been stocked in the rice mill for preparation of “nippat” to be sold for a higher price.

3.A complaint came to be given against the accused person by PW-1 and based on the same, an FIR [Ex.P-6] came to be registered on 13.07.2011 at about 16.00 hrs., in Crime No.461 of 2011. Based on the same, the investigation was taken up by PW-5 and he prepared the Observation Mahazar [Ex.P-1], Seizure Mahazar [Ex.P-3], and Rough



Sketch [Ex.P-5]. The rice that was seized was sent for examination/analysis to PW-4 and the report given by PW-4 was marked as Ex.P-4. The statements of PW-1 to PW-5 was also recorded under Section 161 Cr.PC.

4. On completion of investigation, the Final Report was laid before the Court below and the Court below after serving the copies to the accused person under Section 207 Cr.PC., framed charges against the accused person under Section 6(4) of TNSC [RDCS] Order 1982 r/w Section 7(1)(a)(ii) of the Essential Commodities Act, 1955.

5. The prosecution examined PW-1 to PW-5 and marked Exs.P-1 to P-6, to substantiate their case. The incriminating materials that were gathered in the course of trial was put to the accused person, when he was questioned under Section 313(1)(b) Cr.PC., and he denied the same as false.

6. The Court below on considering the facts and circumstances of the case and after appreciation of evidence, came to a conclusion that the prosecution has not made out the case beyond reasonable doubts and



accordingly, the accused person was acquitted from all charges.

Aggrieved by the same, this criminal appeal has been filed by the State.

7.Heard Mr.L.Baskaran, learned Government Advocate (Crl. Side) for the appellant and Mr.S.Mrimuthu, learned counsel for the respondent.

8.The learned Government Advocate (Crl. Side) appearing on behalf of the appellant submitted that the accused person was involved in the illegal purchase of PDS rice from the ration cardholders in and around Kaveripattinam area and he had hoarded rice in 20 bags each containing 50 kgs. This entire illicit rice was seized by the police and it was seen that the rice was kept inside the rice mill belonging to the respondent. The learned Government Advocate (Crl. Side) further submitted that there was absolutely no explanation on the side of the respondent, as to how he was in possession of such large quantities of PDS rice. The learned Government Advocate (Crl. Side) questioned the order of the Court below mainly on the ground that the Court below disbelieved the entire case of the prosecution, since no independent witnesses were examined by the prosecution.



9.Per contra, the learned counsel for the respondent submitted that the Court below has given a categoric finding that the entire seizure and confession has been obtained from the respondent by the police and there was not a single independent witness, who was examined in this case. Therefore, the very basis of the case of the prosecution was doubted by the Court below and the Court below was right in acquitting the respondent from all charges. The learned counsel submitted that there are absolutely no grounds warranting the interference of this Court in the present criminal appeal.

10.This Court has carefully considered the submissions made on either side and the materials available on record.

11.The specific case of the prosecution is that based on a secret information, PW-1 along with PW-2 went to the rice mill belonging to the respondent and found 20 bags of PDS rice each containing 50 kgs. These rice bags were found hoarded in front of the rice mill.

12.According to the prosecution, the PDS rice was obtained by the accused person from various ration cardholders for a low price. There is



absolutely no evidence to show from whom the accused person had procured the PDS rice and not a single witness was examined by the prosecution in this regard.

13.The Court below found that out of the five witnesses, who were examined on the side of the prosecution, three witnesses were police personnel. The so-called seizure, arrest and recovery had taken place only in the presence of police and no independent witness was even called as a witness to the so-called arrest and seizure. The Court below on carefully analysing the evidence found that there were sufficient houses available near the rice mill and the prosecution did not take any effort to call for an independent witness to prove their case. That apart, there was also no proof to show that the accused person had procured the rice from various ration cardholders. In fact, PW-4 in his evidence has stated that he does not know from where the rice was taken and in that manner, PW-4 did not support the case of the prosecution. The Court below disbelieved the entire case of the prosecution, since only police personnel were called as witness in this case and no independent witness was examined.



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14. In the considered view of this Court, the view that has been taken by the Court below is a “possible view” and hence, this Court cannot interfere in an appeal against acquittal with such a possible view, where the finding is not tainted with any infirmity or illegality. This Court finds that the order of acquittal passed by the Court below is supported by cogent reasons and it does not warrant the interference of this Court.

15. In the result, this Criminal Appeal stands dismissed.

22.02.2023

KP

Internet : Yes/No

Index : Yes/No

Speaking Order : Yes/No

Neutral Judgment : Yes/No

To

1. Judicial Magistrate Court No.1,
Krishnagiri.

2. The Public Prosecutor
High Court, Madras.



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N.ANAND VENKATESH,J.

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