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CrI.O.P(MD).No.6361 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 18.07.2023

Pronounced on : 07.08.2023

CORAM:

**THE HONOURABLE MR. JUSTICE P. DHANABAL**

CrI.O.P(MD).No.6361 of 2019

and

CrI.M.P(MD) Nos.4201 and 4202 of 2019

Sethukali

...Petitioner

Vs

1. The Inspector of Police  
Civil Supply Crime Investigation  
Department(Food Cell)  
Madurai.

2. Senthilkumar  
Civil Supply Crime Investigation  
Department(Food Cell)  
Madurai.

...Respondents

***PRAYER:*** Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records pertaining to the proceedings in C.C.No.9 of 2018 on the file of the learned Judicial Magistrate No.III, Madurai and quash the same.

For Petitioner : Mr.T. Lenin Kumar  
For Respondents : Mr.R.M.Anbunithi  
Additional Public Prosecutor

**ORDER**

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.9 of 2018 on the file of the learned Judicial

Magistrate No.III, Madurai



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2. According to the petitioner, the respondent police registered a case in Crime No.203 of 2017 for the offences under Sections 6(2),6(3), 6(4) of TNSC(RDCS) Order,1982 and Section 7(1)(a)(ii) of Essential Commodities Act,1955. After completing investigation filed final report and the same was taken on file in C.C.No.9 of 2018 by the learned Judicial Magistrate No.III, Madurai. As per the First Information Report and charge sheet no offences are made out as against the petitioner and there are no materials available to show that the rice seized by the respondent police was purchased from the ration card holders. Since the petitioner is the owner of the vehicle she was given duty to transport rice from one godown to another godown. The trial Court ought not to have taken cognizance on the final report filed by the respondent. Further during the course of transportation the petitioner transported rice bags and other materials. Without any *prima facie* materials the respondent police registered a case. The petitioner was authorised to transport rice bags for the purpose of producing it before the fair price shop . The second respondent cannot seize the same presuming that the petitioner parked the vehicle with an intention to sell the commodities in open market. As per clause 6(4) of TNSC(RDCS) order 1982 no person shall purchase any scheduled commodities obtained on a family card. The petitioner has not purchased any rice from the family card holders, therefore the charge sheet is liable to be

quashed.



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4. The learned counsel for the petitioner contended that the respondent police registered a case in Crime No.203 of 2017 for the offences under Sections 6(2),6(3),6(4) of TNSC(RDCS) Order,1982 and Section 7(1)(a)(ii) of Essential Commodities Act,1955. Infact the petitioner is the authorised person to transport rice bags from one godown to another godown and from one fair price shop to another fair price shop. While so the provisions under Sections 6(2),6(3),6(4) of TNSC(RDCS) Order,1982 and Section 7(1)(a)(ii) of Essential Commodities Act,1955 would not attract as against the petitioner according to the First Information Report and the charge sheet. Therefore the charge against the petitioner in C.C. No.9 of 2018 on the file of the learned Judicial Magistrate No.III, Madurai is liable to be quashed.

5. The learned Additional Public Prosecutor would contend that the petitioner illegally transported PDS rice and while the lorry was with the material in the godown of the petitioner she was caught red handed and thereby First Information Report has been registered. After finding *prima facie* materials filed final report as against the



accused C.C.No.9 of 2018, therefore the petition is liable to be dismissed.

6. Heard both sides and perused the materials available on record.

7. On perusal of the record, it is observed that First Information Report has been registered in Crime No.203 of 2017 for the offences under Sections 6(2),6(3),6(4) of TNSC(RDCS) Order,1982 and Section 7(1)(a)(ii) of Essential Commodities Act,1955 and after investigation the police have filed final report and the same was taken on file by the learned Judicial Magistrate No.III, Madurai under Sections 6(2),6(3), 6(4) of TNSC(RDCS) Order,1982 and Section 7(1)(a)(ii) of Essential Commodities Act,1955.

8. Sections 6(2),6(3),6(4) of TNSC(RDCS) Order,1982 reads as follows:

*“6.Supply of Scheduled Commodities – (1) No person shall obtain in any scheduled commodities on a family card unless he -*

*(i)registers himself with an authorised dealer, and*

*(ii)Complies with any other directions which may be issued in this behalf by the Government, the [Commissioner of Civil Supplies*



*and Consumer Protection], the Collector, the Authorised Officer, or the Inspecting Officer as the case may be.*

*(2)The authorised dealer with whom the family card is registered shall on production of such card by the holder, make necessary entries in the card and supply the scheduled commodities not exceeding the quantities for which he is eligible.*

*(3)The authorised dealer shall not supply the scheduled commodities against any family card not registered with him or to non-card holder.*

*(4)No person shall purchase any scheduled commodity obtained on a family card.”*

9. In order to attract the above said provisions there is no material available to connect the accused with the crime and further as per Section 6(4) of TNSC(RDCS) Order,1982, no person shall purchase any scheduled commodities that is purchased from the ration card holder. Therefore in order to constitute the offence under Section 6(4) of TNSC(RDCS) Order,1982 there should be a scheduled commodity purchased from the family card holders but here in the present case it is not so. None of the offences mentioned in the charge sheet attract as against the accused based on the final report and the First Information Report.

10. At this juncture the learned counsel for the petitioner



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produced a copy of the judgment in the case of ***Beer Mohammed and others .vs. The Inspector of Police, CSCID, Dindigul*** reported in ***2017(1) TLNJ 44 (Criminal)***, wherein this Court has quashed the charge sheet filed for the offence Section 6(4) of TNSC(RDCS) Order, 1982 and Section 7(1)(a)(ii) of Essential Commodities Act,1955 on the ground that mere transportation of PDS rice is not sufficient to attract the penal provision and there should be materials to show that they purchased the scheduled commodities and that too from the ration card holders. In this case there is also no materials to attract the offences under Section 6(4) of TNSC(RDCS) Order,1982 and Section 7(1)(a)(ii) of Essential Commodities Act,1955 as against this petitioner.

11. Further without any *iota* of materials to attract the provisions the respondent police have registered a case and filed final report and the same which has been taken on file in C.C. No.9 of 2018 by the learned Judicial Magistrate No.III, Madurai. Therefore as discussed supra the said case in C.C. No.9 of 2018 is liable to be quashed.

12. Accordingly, this Criminal Original Petition stands allowed and proceedings in C.C.No.9 of 2018 on the file of the learned Judicial



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Magistrate No.III, Madurai, is hereby quashed as against this petitioner.

Consequently connected miscellaneous petitions are closed.

**07.08.2023**

NCC : Yes/No  
Internet : Yes/No  
Index : Yes/No  
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To

1. The Judicial Magistrate No.III, Madurai
2. The Inspector of Police  
Civil Supply Crime Investigation  
Department(Food Cell)  
Madurai.
3. The Additional Public Prosecutor  
Madurai Bench of Madras High Court,  
Madurai



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**P. DHANABAL,J.**

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