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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 21/06/2023

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The Hon'ble Mr.Justice **G.ILANGO VAN**

Cr1.OP(MD)No.19018 of 2022
and
Cr1.MP(MD)No.12824 of 2022

Kaliraj @ Kaliraj Pandian : Petitioner/A4

Vs.

1.The State rep. by
The Inspector of Police,
CSCID, Tirunelveli,
(Crime No.254 of 2021) : R1/Complainant

2.G.Maheswaran,
Sub-Inspector of Police,
CSCID, Tirunelveli. : R2/De-facto
Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the FIR in Crime No.254 of 2021 on the file of the first respondent police and quash the same as illegal and pass such further or other orders.

For Petitioner : Mr.T.Lenin Kumar

For Respondents : Mr.R.Suresh Kumar
Government Advocate
(Criminal side)

**ORDER**

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This criminal original petition has been filed seeking quashment of the FIR in Crime No.254 of 2021 on the file of the 1st respondent.

2.The case of the prosecution in brief:-

A suo motu complaint was registered by the Sub-Inspector of Police, Tirunelveli Police Station on the following facts and circumstances:-

On 19/11/2021, when the police team on routine check up, on secrete information, they went to Surendai to Alangulam road and making vehicle check up near Muthukrishnaperi junction. At that time, at about 10.30 am, the vehicle bearing registration No.TN-76-V-8823 was intercepted and on their inspection and search, found 45 gunny bags of rice. The occupants were Anandharaj, who was the driver and Mariselvan. They stated that they are transporting 2250 kgs of rice. It was also seized and mahazar was prepared. On their disclosure statement, the involvement of several persons came to light. Upon which, a case in Crime No.354 of 2021 was registered for the offences under clause 6(4) of TNSC (RCS) order, 1982 r/w 7(1)(a)(ii) of Essential Commodities Act, 1955.



3. Now seeking quashment of the same, this petition has been filed by this petitioner, who is arrayed as A4 on the ground that only on the basis of the confession statement of the co-accused, this petitioner has been implicated and he was employed in a Fair Price shop; On 16/12/2021, 22/12/2021 and 14/03/2022, a report was submitted to the Deputy Registrar of Public Distribution System, Tirunelveli to the effect that there was no storage of excess of stock in the shop. Similarly, on 26/11/2021 also, inspection was conducted and found no shortage, except minor excess or shortage. So, according to him, they conducted proper investigation and on enquiry, by perusing the relevant records of the Fair Price shop, final report has been filed.

4. The next ground is that the offences mentioned in the FIR does not attract any of the ingredients of the offences alleged. So, according to him, clause 6(4) of TNSC (RDCS) Order, 1982 r/w 7(1)(a)(ii) of the Essential Commodities Act, 1955 is not at all attracted, since there is no allegation to the effect that the above said rice was purchased from the Ration Card holders.



5.Heard both sides.

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6.Allegation of making pilferage of rice supplied by the Government for Public Distribution system, which was done deliberately, sold the same to the co-accused and on their illegal transport midway, it was seized by the de-facto Complainant team. Seizure cannot be doubted, since proper seizure mahazar was prepared on the spot itself. It was found that 2250 kgs of PDS rice supplied to the fair price shop for the purpose of Public Distribution System.

7.Whether the above said rice was purchased from this petitioner is purely a matter for investigation. What sort of offences are attracted, it is now too premature stage to decide or express any opinion on that. Why this petitioner engaged in stocking the rice is not understandable. He would rely upon such a factual situation stating that during the various inspections conducted on the fair price shop, where the petitioner was employed, were not found any discrepancy, except minor shortage or excess.



8. In the grounds, as mentioned earlier, he would rely upon the inspection reports. First one was, dated 26/11/2021 on the Kuruvikulam Circle. On 16/12/2021, 22/12/2021 and 14/03/2022 in the spot namely Kadayam area.

9. So the question, which arises for consideration is whether this factual background can be taken into account for quashing FIR against this petitioner.

10. Along with the typed set of papers, he has produced the copy of the inspection reports, dated 26/11/2021, 16/12/2021, 22/11/2021 and 14/03/2022. During that time, this petitioner namely Kaliraj @ Kaliraj Pandian working as sales-man.

11. No doubt that in those reports, only minor discrepancies were found. Now the date of the alleged occurrence namely transportation of PDS rice, is 13/11/2021. The first inspection, as mentioned earlier, was made, on 26/11/2021. Only stock verification has been made and the date of supply of the above said PDS rice is not mentioned in the inspection report. Unless the entire stock report prior to the date of inspection namely



26/11/2021 is verified, this petitioner cannot take any benefit. The entire stock must be properly verified during the course of investigation. Since it is an issue involving the complaint, on thorough stock verification only, the truth will not come. To find out the truth, this petitioner must also cooperate with the Investigating Officer for completion of the investigation process. During the course of investigation, it was found that the above said PDS rice was not purchased from this petitioner, then the criminal proceedings will be closed against him. As mentioned above, it is too a premature stage to record any finding on that.

12.Now, on going through the CD file, it is seen that the above said investigation was undertaken by the Deputy Registrar of Cooperative society, in pursuance of the request made by the Investigating Officer. During the statement, they have stated that only minor discrepancies were found during their inspection. It appears that based upon the inspection report, this petition has been filed. But, as mentioned earlier, unless thorough check up is made, the truth will not come out.



13.The starting point of the inspection will be the crucial point. The Investigating Officer must investigate the matter by fixing the starting point. It appears that no such effort has been made by the Investigating Officer so far. This inspection report is not sufficient enough to exempt from the investigation process at this stage.

14.Since huge quantity of PDS rice has been seized, as stated above, a thorough investigation is required. So, this is too a premature stage to quash the proceedings. Only at the conclusion of the investigation, whether the offences are made out or not will be found out. So, I am not going into the aspect, whether the offences now alleged are attracted or not.

15.So I find no merit in this petition. Accordingly, this criminal original petition is **dismissed**. Consequently connected Miscellaneous Petition is closed.

21/06/2023

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Inspector of Police,
CSCID, Tirunelveli.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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