



Crl.O.P(MD).No.6332 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2024

CORAM :

THE HON'BLE MR JUSTICE A.A.NAKKIRAN

Crl.O.P(MD)No.6332 of 2021

and

Crl.M.P(MD).Nos.3640 & 3641 of 2021

V.Raja

... Petitioner / 4th Accused

Vs.

1.The State represented by,
The Inspector of Police,
Civil Supplies C.I.D.,
Virudhunagar.
(Crime No.279 of 2008)

... 1st Respondent / Complainant

2.J.Jeyaseelan,
Inspector of Police,
Civil Supplies C.I.D.,
Virudhunagar.

... 2nd Respondent / Defacto
Complainant

PRAYER:- Petition filed under Section 482 Cr.P.C., to call for the records in S.T.C.No.278 of 2019 on the file of the learned Judicial Magistrate No.II, Ramanathapuram and quash the charge sheet and the consequential further proceedings as against the petitioner.

For Petitioner : Mr.T.Lenin Kumar

For R1 : Mr.K.Sanjai Gandhi

Government Advocate (Crl.Side)



Crl.O.P(MD).No.6332 of 2021

ORDER

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This criminal original petition has been filed to quash the impugned charge sheet in S.T.C.No.278 of 2019 on the file of the learned Judicial Magistrate No.II, Ramanathapuram.

2.The case of the prosecution is that A1 is the owner of the rice bags. A2 is the driver of the lorry. A3 is the load man of the driver. The petitioner herein is the owner of the lorry and also arrayed as A4. On 12.04.2008, at about 03.00 a.m, when the police party were in surveillance, they received a secrete information. On receipt of information, they went to Madurai – Rameswaram Road near Railway Gate, Uttaragoshamangai Vilakku and intercepted a Ashok Leyland Lorry bearing Reg.No.TN-31-Q-3996, which was proceeding towards Madurai and found that 120 bags of PDS Rice. Each bag contains 50 Kg. They arrested the driver and others. From the confession of driver (A2), it was found that on 10.04.2008, empty mineral water bottles were transported from Pollachi to Madurai and the petitioner instructed A2 that 120 bags of rice will be loaded in the Lorry and the same may be transported to Pollachi. In this regard, A1 / owner of the rice bags confessed that he collected the rice bags from a fair price shop and the petitioner gave



Crl.O.P(MD).No.6332 of 2021

vehicle to transport the rice bags from Uttragosamangai to Pollachi.

Thereby, FIR has been registered against the accused in Crime No.279 of 2008 for the offence under Section 6(4) of TNSC (RDCS) Order, 1982 r/w 7(1)(a)(ii) of Essential Commodities Act, 1955. After completion of investigation, final report has been filed before the learned Judicial Magistrate No.II, Ramanathapuram and the same was taken on file in S.T.C.No.278 of 2019. Challenging the same, the petitioner filed this petition.

3. The learned counsel appearing for the petitioner submitted that The Quality Inspector has no power to give a certificate that the rice recovered from the accused was PDS rice and there is no standard or definition of what PDS rice is. As per Section 6(4) of TNSC (RDCS) Order, 1982, *no person shall purchase any scheduled commodities obtained on a family card*. In the case on hand, there is no evidence to prove that the petitioner had purchased the PDS rice from the family card holders. Hence, no offence is made out as against the petitioner. To support his contention, he relies upon the judgment of this Court in ***Beer Mohammed and Others Vs. The State represented by the Inspector of Police, C.S.CID, Dindigul*** reported in ***2017 (1) TLNJ 44 (Criminal)***.



The relevant portions of the above said judgment is as follows:-

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“ 3. The foremost contention of the learned counsel for the petitioners is that the certificate issued by the quality inspector cannot be the basis for the prosecution, as the same does not have any legal effect. The learned counsel further submitted that the allegation made against the petitioners does not make out any offence, as there is no material to show that the rice seized was purchased from the ration card holders. In support of his submission, the learned counsel relied on the judgment of this Court in Crl.O.P.(MD).No.7055 of 2016, dated 19.07.2016.

4. The learned Government Advocate (Criminal Side) would submit that on the basis of the confession given by A1 and A2, the third petitioner/A3 was added as an accused and that the quality inspector has given a clear finding that the rice seized from the 3 accused should have been the one meant for distribution under Public Distribution System and the same in turn prove that the accused should have purchased the same from the card holders.

5. I have carefully considered the submissions made by the learned counsel for the petitioners and the learned Government Advocate (Criminal Side) for the respondent and also perused the typed set of papers.

6. This Court in a catena of decisions held that one cannot be prosecuted for smuggling rice meant for



PDS solely on the basis of the certificate issued by Quality Inspector stating that the rice seize from the accused was PDS rice. In the case on hand, it has been stated by the Quality Inspector that from the composition of the rice, which was taken up for analysis, he came to know that the rice is meant for Public distribution System. In the absence of materials to show that rice under examination was purchased from card holder, this material that it is a PDS rice, has no evidentiary value.

7. With regard to the second contention of the learned counsel for the petitioner, it would be necessary to look into the provisions of Clause 6(4) of TNSC (RDCS) Order, 1982 r/w Section 7(1)(a)(ii) of the Essential Commodities Act, 1955. Clause 6(4) 4 relates to supply of Scheduled Commodities, as per which no person shall purchase any scheduled commodities obtained on a family card. Section 7(1)(a)(ii) of the Essential Commodities Act, 1955 relates to penalties. A bare reading of Clause 6(4) of the TNSC (RDCS) Order, clearly indicates that for maintaining the prosecution against the accused (who is stated to be seller), there should be have been materials to show (a) the purchase of the scheduled commodities; (b) that purchased from a ration card holder. The existence of these two conditions is not disjunctive but conjunctive. In other words, both the conditions must exists together.



8. *In the case on hand, there is not even an iota of material to show that the petitioners had purchased the contraband from the family card holders. Not even a single statement from any of the witnesses that either they are the card holders or that they sold the rice distributed to them under the card. From the above, the entire proceedings against the petitioners in C.C.No.20 of 2010 on the file of learned Judicial Magistrate No.III, Madurai, are liable to be quashed.*

9. *Moreover, this Court in similar set of circumstances and identical facts, in Crl.O.P.(MD).No. 7055 of 2016, vide order dated 19.07.2016 and Crl.O.P.(MD).No.1540 of 2010, vide order dated 5 23.04.2016, proceedings taken against the petitioners therein under Sections 6(4) of TNCS (RDCS) Order, r/w 7(1)(a)(ii) of the Essential Commodities Act were ordered to be quashed. The said decisions squarely apply to the facts of this case also.*

10. *Under the above-said circumstances, the proceedings, in C.C.No.20 of 2010 on the file of learned Judicial Magistrate No.III, Madurai, against the petitioners are quashed. The criminal original petition is allowed. Consequently, connected miscellaneous petition are closed. ”*

- In view of the above judgement, he prayed to quash the impugned charge sheet.



Crl.O.P(MD).No.6332 of 2021

4.The learned Government Advocate (Crl.Side) appearing for the first respondent submitted that Section 6(4) indicates that *no person shall purchase any scheduled commodities obtained on a family card*. But, in this case, the accused persons transported the PDS rice with the intention of selling it in the market. The Quality Inspector gave a Certificate that the rice recovered from the accused is a PDS rice. The petitioner is the owner of the vehicle. A2 / driver of the lorry, gave a confession that he was directed by the petitioner to meet one Nedhi (A1) and upload PDS rice. Hence, it is clear that the petitioner is the kingpin of the above said occurrence. Accordingly, he prayed for dismissal of this petition.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent.

6. From the perusal of the judgment of this Court in ***Beer Mohammed and Others Vs. The State represented by the Inspector of Police, C.S.CID, Dindigul*** reported in ***2017 (1) TLNJ 44 (Criminal)*** relied by the learned counsel appearing for the petitioner, this Court is of the considered view that the above said judgment is squarely applicable



Crl.O.P(MD).No.6332 of 2021

to the present case on hand. Hence, this Court is inclined to quash the
impugned proceedings against the petitioner

7. Accordingly, the impugned proceedings in S.T.C.No.278 of 2019 on the file of the learned Judicial Magistrate No.II, Ramanathapuram, is hereby quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

12.06.2024

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
dss

To

1. The Judicial Magistrate No.II,
Ramanathapuram.
2. The Inspector of Police,
Civil Supplies C.I.D.,
Virudhunagar.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P(MD).No.6332 of 2021

A.A.NAKKIRAN, J.

dss

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