



W.P(MD)No.15067 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.07.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15067 of 2024

and

W.M.P.(MD)Nos.13211 and 13214 of 2024

Pandiselvi

... Petitioner

Vs.

1.The Regional Manager,
Tamilnadu Civil Supplies Corporation,
District Collectorate Building Part - 2,
Sivagangai Zone, Sivagangai District.

2.The Inspector of Police,
CSCID - Sivagangai,
Madurai Region.
(In Crime No. 128/2024).

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the 1st respondent in Na.Ka.N.PS1/4473/2024 dated 18.06.2024 and quash the same as illegal.

For Petitioner : Mr.A.Balaji

For Respondents : Mr.G.Mohan Kumar for R1.
Mr.Albert James,
Government Advocate (Crl. Side) for R2.



W.P(MD)No.15067 of 2024

ORDER

WEB COPY

Heard the learned counsel for the writ petitioner, the learned standing counsel for Tamil Nadu Civil Supplies Corporation and the learned Government Advocate (Crl. Side) for the second respondent.

2.The writ petitioner was appointed as hulling agent by the corporation in the year 2018. The petitioner has been running a modern rice mill for more than twenty years. The petitioner's hulling agency has been suspended vide proceeding dated 18.06.2024. The only reason for passing such an order is the petitioner's implication in a case involving essential commodities. Challenging the said order, this writ petition came to be filed.

3.The learned counsel for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4.The learned standing counsel for the corporation submitted that since the petitioner came under adverse notice in view of her implication as Accused No.5 in Crime No.128 of 2024 on the file of the second respondent, the



W.P(MD)No.15067 of 2024

corporation was constrained to take action. The learned counsel impressed upon this Court that the relationship between the petitioner and the corporation is purely contractual and that therefore, the corporation is entitled to take the stand that only those who are completely above board and who have not come under adverse notice, will be their hulling agents. He added that the impugned order is only a temporary measure. Once the petitioner is exonerated from the prosecution, in all probability, her agency will be restored. He, therefore, called upon this Court to dismiss the writ petition.

5.The learned Government Advocate (Crl. Side) for the second respondent submitted that the FIR would speak for itself. He also added that the petitioner had also given confession statement.

6.I carefully considered the rival contentions and went through the materials on record. The learned counsel for the petitioner pointed out that impugned order itself contains several averments which are in favour of the writ petitioner. The only reason for suspending the hulling agency is the petitioner's implication in the aforesaid criminal case. I went through the contents of the FIR. It was registered by the second respondent on 31.05.2024. The second respondent had intercepted a vehicle bearing registration No.TN 63



W.P(MD)No.15067 of 2024

BS 3840 (Mahindra Bolero Pick Up Jeep) at around 12.00 noon on 31.05.2024

near Kanadukathan Hanumanar Temple. They noticed that the vehicle was transporting 42 bags (weighing 1680 Kgs) of PDS rice. One Sanjeevi was the driver. He was accompanied by one Kalies. When they were enquired, they had stated that the PDS rice was handed to them by one Ashok and Anand Babu and they were to deliver to one Selvi of Pallathur. Based on the said statement, Sanjeevi, Kalies, Ashok, Anand Babu and Sevli were arraigned as accused. The petitioner herein is figuring as the fifth accused. The petitioner was arrested and she had also given confession statement. It is seen that nothing was recovered from the petitioner. Even I assume for a moment that all the allegations set out in the FIR are true, even before the contraband could be delivered to the petitioner, the mission got aborted. Since transportation by itself is an offence, rightly the FIR was registered and prosecution is presently going on. It has to be taken to its logical conclusion. The allegation against the petitioner can only be criminal conspiracy. It is again well settled that confession which does not lead to recovery is inadmissible in law. Section 25 of the Indian Evidence Act reads as follows:-

“25. Confession to police-officer not to be proved.—No confession made to a police-officer, shall be proved as against a person accused of any offence.”



W.P(MD)No.15067 of 2024

7. There is yet another aspect. Presumption of innocence is a human right. Mere implication on the strength of statements given by the co-accused, cannot lead to any adverse civil consequence. A criminal case may take years to get concluded. The petitioner is not the only accused. There are four other persons. The contraband was recovered from the Accused Nos.1 and 2. Therefore, one can safely conclude that they will try every trick in the book to drag on the proceedings. Even if I take the assurance of the cooperation at its face value, still that is the prospect lying in the distant future; the clock cannot be put back.

8. In this view of the matter, the order impugned in the writ petition is set aside and the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

08.07.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

To:-

The Inspector of Police,
CSCID - Sivagangai,
Madurai Region.



WEB COPY



W.P(MD)No.15067 of 2024

G.R.SWAMINATHAN, J.

ias

W.P(MD)No.15067 of 2024

08.07.2024