
(2011) 04 AP CK 0053

Andhra Pradesh High Court

Case No: Criminal Revision Case No. 107 of 2005

M. Ganadeva Nadu

APPELLANT

Vs

The State of A.P.
Inspector of Police,
VCCS.

RESPONDENT

Date of Decision: April 7, 2011

Acts Referred:

Essential Commodities Act, 1955 " Section 16A(1), 6A

Citation: (2011) 04 AP CK 0053

Hon'ble Judges: B.N. Rao Nalla, J

Bench: Single Bench

Advocate: S.V. Muni Reddy, for the Appellant; Public Prosecutor, for the Respondent

Final Decision: Dismissed

Judgement

B.N. Rao Nalla, J.

The Petitioner - accused was prosecuted before the Chittoor Joint Collector, Chittoor, in proceedings No.

S3/6A/152/PLC/98 by the Inspector of Police, Vigilance Civil Supplies Department, Thirupati alleging contravention of the Clause 3 of the A.P.

Scheduled Commodities Dealers (Licencing and Distribution) Order, 1982 (for short "the Distribution Order") and Clause 7 of Fertilizers (Control)

Order 1985 (for short "the Control Order"); that after hearing both sides, as original authority under Essential Commodities Act 1955 (for short

the EC Act"), the Joint Collector of Chittoor found that the Petitioner had stored huge quantities of fertilizers and food grains i.e. Bhavani rice,

Boiled rice and paddy in contravention of the aforesaid statutory provisions of the Distribution Order and the Control Order, and, as such, ordered

for confiscation of the entire seized stock to the State u/s 16(A)(1)(a) of the EC Act.

2. The facts of the case, in brief, are that the Inspector of Police, Vigilance Civil Supplies, Thirupati, on credible information that the Petitioner was

indulging in clandestine business and was selling fertilizers and food grains without maintaining the records for personal gain, after obtaining

permission from the Court of the local Magistrate, he along with his staff and mediators, visited the shop of the Petitioner on 21-08-1998 situated

at Mangalmapeta village and found the Petitioner present in the shop and on enquiry, Petitioner disclosed his name and other particulars and stated

that he purchased the commodities and fertilizers at Chittoor and selling the same on retail basis, but he failed to produce licence and records for

the same and on verification the following stocks were found in the go-down of the Petitioner:

1. 94 bags of Nagarjuna Urea each weighing 50 Kgs.
2. 9 bags of Super Phosphate each weighing 50 Kgs.
3. 2 bags of Ragulu each weighing 90 Kgs.
4. 9 bags of Jilakara Masura each weighing 50 Kgs.
5. 12 bags of Bhavani rice each weighing 50 Kgs.
6. 2 bags of boiled rice each weighing 50 Kgs.
7. 39 bags of Masura Paddy each weighing 75 Kgs.

Then, the Inspector of Police, Vigilance Civil Supplies, seized the aforesaid stock and handed over them to the Village Administration Officer,

Gaddamvaripalle and registered a case in Crime No. 77/VCCTR/98. Subsequently, the Joint Collector, Chittoor directed the Mandal Revenue

Officer, Pulicherla to dispose of the seized stock through public auction. In the meanwhile, this Court vide order in W.P. No. 26395 of 1998

directed the Joint Collector, Thirupati to release the seized stock on furnishing a conditional guarantee for the full value of the seized stock and

complete the enquiry u/s 6-A of the EC Act and accordingly the stock was released.

3. The Joint Collector issued show cause notice to the Petitioner with the following charges:

Charge No. 1:

That the Respondent failed to produce any licence and doing business in rice, boiled rice and paddy has not maintained true and correct accounts,

thereby contravened the control order Under Clause 3 of APSCD (L & D) Order, 1982.

Charge No. 2:

That the Respondent has failed to produce the certificate of registration for sale or carry on the business of selling fertilizers at any place except

under and in accordance with the terms and conditions of certificate of registration thereby contravened Clause 7 of Fertiliser (Control) Order,

1985.

4. The Petitioner filed his written explanation for the aforesaid show cause notice. After hearing both sides and considering the material on record,

the Joint Collector ordered to confiscate the entire stock as has already been stated supra being not satisfied with the explanation offered by the

Petitioner that the aforesaid stock was for personal use and for raising crops in Acs.53-00 of land belonging to him and his two brothers and that

he was also cultivating Acs.8-00 of land belonging to his son-in-law, as such, the said stock was not for sale, and therefore, the question of

indulging in clandestine business in fertilizers and food grains for personal gain does not arise so also contravention of the provisions of Clause 3 of

the Distribution Order and Clause 7 of the Control Order.

5. The plea of the revision Petitioner-accused is that since the seized food grains were raised in the lands of himself, his brothers and his son in law

and since they were not meant for sale, and since he was not carrying on the business, he is not required to possess any licence and as such, the

question of violating the provisions of EC Act in this regard does not arise. However, Clauses 2 and 3 of the Distribution Order renders a person

liable for violating the provisions of the said order even if he is not carrying on the business in the food grains. That otherwise also, presumption

arises that he was carrying on business of dealing in such commodities since he was storing huge quantities of food grains and fertilizers and the

same is bound to attract the provisions of Sub-clause 2 of Clause 3 of the Distribution Order. In the circumstances, his other plea that the stored

fertilizers were not meant for sale and the said fertilizers stock was meant for utilizing for his agricultural needs, cannot be accepted and the same

attracts Clause 7 of the Control Order. Moreover, none of his alleged brothers and son in law came forward to claim any of the stocks of either

food grains or the fertilizers. Therefore, it cannot be said that both the courts below erred in brushing aside the third party affidavits which are to

the effect that the Petitioner had stored the said huge quantities of food grains and fertilizers for his personal use, and consequently, the impugned

order of the appellate court cannot be said to be erroneous in confirming the conviction of the revision Petitioner and seizure of the stocks of food

grains and fertilizers, and the modification of the order of the trial court to the confiscation of entire seized stock to 50% or its value to the State.

6. In the circumstances, this revision court is of the view that the revision petition is devoid of merits and the same is liable to be dismissed.

7. In the result, the Criminal Revision Case is dismissed.