(2013) 07 AP CK 0051

In the Andhra Pradesh High Court

Case No : Criminal RC No. 1389 of 2013

Chilukuri Balaji Groundnut Decortication Mill	APPELLANT
Vs	
State of Andhra Pradesh and Another	RESPONDENT

Date of Decision : 19-07-2013

Acts Referred:

Citation : (2013) 2 ALD(Cri) 545 : (2013) 3 ALT(Cri) 189

Hon'ble Judges : K.G. Shankar, J

Bench : Single Bench

Advocate : Kowturu Vinaya Kumar, for the Appellant;

Judgement

K.G. Shankar, J.—The petitioner assails the order of the learned Sessions Judge in Crl. A No. 35 of 2012 on the file of the Principal Sessions Judge, Visakhapatnam. The Groundnut Decortication Mill of the petitioner was inspected by the Deputy Tahsildar, Civil Supplies, Anakapalli on 18.8.2011. He found variations between book balance and ground balance. The book balance of groundnut was 49,600 Kgs., whereas the ground balance was 42,075 Kgs. with a variation of 7,525 Kgs. So far as the groundnut Khesnal is concerned, the book balance is 18,500 Kgs., whereas the ground balance was 16,930 Kgs. with a variation of 1,570 Kgs. That apart, the book balance of Bengalgram was zero, whereas 2,160 Kgs. of Bengalgram was found in the possession of the mill. The total variation of the three commodities put together is 11,255 Kgs.

2. The proceedings u/s 6A of the Essential Commodities Act, 1955 were initiated by the District Collector, Visakhapatnam. After receiving the explanation of the petitioner, not satisfied with the same, the learned District Collector ordered confiscation of 25%. However, the confiscation was 25% of the entire seized stock and not 25% of the variation portion of the seized stock. Aggrieved by the same, the petitioner preferred an appeal before the Principal Sessions Court. The learned Principal Sessions Judge agreed with the learned District Collector that variation was unexplained by the petitioner. He, however, reduced the quantum of the confiscation from 25% to 15%. But, the learned District Judge also

ordered confiscation of 15% of the whole of the seized stock and not value of the 15% of the variation portion of the stock.

3. As rightly submitted by the learned Counsel for the petitioner, confiscation can be ordered in respect of the variation portion of the seized stock alone. The petitioner is not liable to offer explanation in respect of the quantity of stocks, which is found in accordance with the accounts. He is liable for not accounting for the variation portion of the stock. Consequently, confiscation can be ordered only in respect of the value of the variation portion of the stock.

4. The learned Sessions Judge leniently considered it appropriate to order confiscation of 15%. I do not consider it appropriate to reduce the quantum of confiscation further. The confiscation shall be at 15% only. However, where the confiscation can be in respect of the variation portion of the stock only, I direct that confiscation shall be on the value of the stock which is found in variation between the book balance and ground balance and not the value of the whole stock seized by the Deputy Tahsildar, Civil Supplies, Anakapalli. The criminal revision case is disposed of in the above terms. Miscellaneous petitions pending, if any, shall stand dismissed.