

(1993) 12 MAD CK 0014

In the Madras High Court

Case No : Criminal R.C. No. 30 of 1991 in Criminal RP 30/91

K. Pichaikani

APPELLANT

Vs

Assistant Collector, C. Ex. and Customs, Madurai

RESPONDENT

Date of Decision : 09-12-1993

Acts Referred:

Customs Act, 1962 — Section 111, 135

Citation : (1997) 93 ELT 678

Hon'ble Judges : Bellie, J

Bench : Single Bench

Advocate : Shri P. Kadirvel and S. Ganesan, for the Appellant;

Judgement

Bellie, J.—This petition coming on for hearing on this day upon perusing the petition, and the Order of the Lower Courts, and the record in

the case and upon hearing the arguments of Mr. P. Kadirvel for Mr. S. Ganesan Advocate for the petitioner and Respondent not appearing in

person or by Advocate, the Court made the following order :-

This criminal revision case is filed by the accused. He has been convicted by the Additional Chief Judicial Magistrate, Madurai, u/s 135(1)(b)(i) of

the Customs Act and sentenced to one year R.I. and a fine of Rs. 250/-, in default, to undergo simple imprisonment for six weeks. And this

conviction and sentence has been confirmed in the appeal by the learned II Additional Sessions Judge, Madurai.

2. The case against the accused is that on information, P.W.I. the Superintendent of Central Excise on 19-10-1988 at 6:30 A.M. went to the

house of the accused and there he found 30 gunny bags of foreign cloths. The accused was not there. He took a statement from his wife and seized

the goods. Later the accused appeared before the Customs Officer on 22-10-1988. According to the prosecution, the accused has kept these

foreign goods without permit. The accused was knowingly involved in keeping and concealing the said 30 bags of foreign goods knowing that they

were liable for confiscation u/s 111(d) of the Customs Act, 1962, read with Section 3 of Imports and Exports (Control) Act, 1947 and as such he

is punishable u/s 135(1)(b)(i) of the Customs Act, 1962. The accused denied the charge.

On the appreciation of the evidence adduced in the case, the learned trial Magistrate came to the conclusion that the accused was guilty and

therefore he convicted and sentenced him as aforesaid. The said conviction and sentence were confirmed by the appellate Court.

3. It is now contended in the criminal revision case that the contraband viz. 30 gunny bags of goods were brought by the accused's cousin one

Murugan in a Van along with two others, that he kept them in his house, that he was not aware of what the gunny bags contained, and that he had

nothing to do with them. But this version of the accused cannot be believed because when as many as 30 gunny bags of goods were brought to his

house, certainly he would have known what they contained. Even without asking the nature of the goods, he would not have allowed them to be

kept in his house. Therefore, the case of the accused that he was not aware of the contents of the gunny bags cannot be accepted. Hence, it is

clear that he was aware that foreign goods had been brought to his house. As pointed out by the Court below, there is absolutely no evidence

whatsoever to show that there was any permit in respect of the said foreign goods, or any duty had been paid for them. The accused should have

known that they are liable for confiscation. In these circumstances, u/s 135(1) (b) of the Customs Act, even keeping any foreign goods by any

person which he known or has reason to believe are liable to confiscation shall be punishable. Therefore, rightly the trial Court has convicted and

sentenced him and the appellate Court has confirmed the same. I do find any reason whatsoever to interfere with the said conviction and sentence.

Accordingly, the criminal revision case is dismissed.