
(1996) 02 MAD CK 0080

In the Madras High Court

Case No : Criminal Revision Case No. 624 of 1993

Sebastian and another

APPELLANT

Vs

Inspector of Police, Maduri

RESPONDENT

Date of Decision : 15-02-1996

Acts Referred:

Essential Commodities Act, 1955 — Section 7

Citation : (1997) CriLJ 2206

Hon'ble Judges : M. Karpagavinayagam, J

Bench : Single Bench

Advocate : S. Ganesan, for the Appellant; P. Govindarajan, Government Advocate, for the Respondent

Judgement

M. Karpagavinayagam, J.—Petitioners/Accused 2 and 3 have preferred this Revision against the judgment in S.T.C. No. 3 of 1993 on the

file of the Special District and Sessions Judge (For E.C. Act) Madurai, convicting them for the offences under Clause 6(3) of Tamil Nadu

Scheduled Commodities (RDCS) Order and Section 7(1)(a)(2) of the Essential Commodities Act and sentencing them to undergo one year

rigorous imprisonment each and to pay a fine of Rs. 1500/- each in default to suffer three months simple imprisonment each.

2. The case of the prosecution is as follows : PW-1 Muthu Kamatchi was the Deputy Tahsildar. He gave a complaint Ex. P1. PW-2 Arivazhagan

was working in the Civil Supplies Corporation at Usilampatti. A-4 -Pandian was the salesman in charge of the Rations Shop at Athikaripatti. On

3-10-1991 various essential commodities were distributed to Melathirumanickam, Athikaripatti and Avalchery Ration Shops through Invoice Ex.

P-2. PW-3-Ayyavoor was the concerned Taluk Supply Officer. On 7-10-1991 one

Ravichandran gave a complaint to the Revenue Divisional Officer. On the basis of which, the Revenue Divisional Officer, on 9-10-1991 asked the said PW-3 to go and inspect the Ration Shop, where some malpractice is alleged and send a report. On 9-10-1991 a statement was obtained from Sebastain Ex. P-3. One Mayan gave a statement Ex. P-4, who is the salesman in Avalchery Ration shop. The statement given by Pandian is Ex. P-5, who is a salesman at Athikaripatti. As per the statement of these persons, the essential commodities, which have been distributed for distribution to the Ration Card Holders have not actually been distributed, but they made entries in the concerned Registers as if the essential commodities have been distributed to the Ration card Holders. After making false entries they all shared the amount among themselves. Subsequently all the three persons have been suspended. On the basis of the report, the police, conducted investigation and examined various card holders to show that there is no entry relating to the purchase of articles on the relevant dates in the ration cards and they have not obtained any article from the respective ration shops on the respective dates. The Investigating Officer, after collecting various documents filed a charge-sheet against the accused persons for the offences under Clause 6(3) of the Tamil Nadu Scheduled Commodities (RDCS) Order and Section 7(1)(a)(2) of the Essential Commodities Act. The trial Court after elaborate trial convicted Accused 1 to 4. The petitioners A-2 and A-3 were the salesmen of two different ration shops and they have been convicted and sentenced as referred to earlier.

3. Heard the learned counsel for the petitioner as well as learned Government Advocate appearing for the State. Counsel for the petitioner contends that the petitioners are only salesmen and there is no material to show that actually they have distributed to the persons who were other than the card holders. Normally when there is crowd of 70-80 persons in the shop to get the supply of essential commodities, the salesmen could not have time to make entries in the ration cards and even without making the entries in the ration cards, it is the normal practice, the ration card holders who get supply from the Ration shop will go away. The sum and substance of the argument of the counsel for the petitioners is that they could not be held responsible for the offences for the mere reason that there is

failure on their part to mark entries in the ration cards. Actually the offences relate to the violation of the rules by not entering the relevant factual aspects in the ration cards. So, it is an admitted fact that though the Registers maintained by the petitioners in their respective shops show that there was distribution of essential commodities to the various Card holders, no such corresponding entries were made in the connected ration cards. With regard to this aspect there is evidence available in the record and this has been elaborately considered by the lower Court and a correct conclusion has been arrived at and the offences have been proved beyond reasonable doubt. Therefore, I see no justification to interfere with the findings given by the lower Court. As such I see no merit in the petition.

4. At this stage, counsel for the petitioner says that the petitioners have already been suspended and further requested this Court to consider the question of sentence. The petitioners are familymen having wife and children and some sympathy must be shown, in view of the fact that they are jobless. With reference to this aspect I heard Mr. P. Govindarajan, learned Government Advocate and he represents that he has no objection for reduction of the sentence. So, in the interest of justice, I feel that the period of one year could be reduced to six months. Accordingly, sentence of one year is modified and reduced to the imprisonment for six months. Mr. Ganesan, learned counsel for the petitioner at this stage brings to my notice that there is G.O. No. 296 D/- 20-2-1993 available which entitled the petitioners to avail such benefits for remission for six months. Learned Government Advocate would fairly concede that the said G.O. is applicable to the case of the petitioners. If that be so, the petitioners need not have to surrender before the prison Authorities to undergo the unexpired portion of imprisonment for six months. However, sentence of fine shall stand confirmed. In other respects, this Revision is dismissed.

5. Revision dismissed.