

(1987) 06 MAD CK 0013
In the Madras High Court
Case No : Writ Petition No. 379 of 1981

S.M.A. Siddique	Vs	APPELLANT
Government of India		RESPONDENT

Date of Decision : 16-06-1987

Acts Referred:

Citation : (1989) 42 ELT 541

Hon'ble Judges : Nainar Sundaram, J

Bench : Single Bench

Advocate : K. Ramaswami, for N. Ganapathy, M.I. Meerasahib and Thirumoorthy, for the Appellant; T. Somasundaram, Addl. Central Govt. Standing Counsel, for the Respondent

Judgement

Nainar Sundaram, J.—This Writ Petition coming on for hearing on this day upon perusing the petition and the affidavit filed in support

thereof the Order of the High Court, dated 23-1-1981 and made herein the records relating to Order No. 203/80 dated 17-9-1980 on the file of

the 1st respondent comprise in the return of the respondents to the Writ made by the High Court, and upon hearing the arguments of Mr. K.

Ramaswami for M/s. N. Ganapathy, M. I. Meerasahib and A. Thirumoorthy, Advocates for the petitioner, and of Mr. T. Somasundaram, Addl.

Central Govt. Standing Counsel for the Respondents the Court made the following Order :-

The petitioner was visited with an Order of imposition of penalty of Rs. 10,000/- under the concerned rules of the Defence of India Rules, 1962

hereinafter referred to as the Rules. This Order was passed by the third respondent on 1-8-1969. The petitioner preferred an appeal as against

that Order to the Second respondent on 17-9-1969. While the said appeal was

pending, the petitioner along with others, and on the very same set of facts, was prosecuted before the Criminal Court for the contravention of the concerned rules as well as the provisions of the Customs Act, 1962 and the Foreign Exchange Regulation act, 1947. The Criminal Court rendered its judgment on 12-9-1972 and so far as the petitioner is concerned, on the discussion of the facts of the case, it came to the conclusion that he could not be penalised and the petitioner was acquitted. The decision of the Criminal Court was substantially on merits and on identical facts and charges. I am told that the acquittal of the petitioner held good at all relevant points of time. The second respondent disposed of the appeal on 21-11-1977 and he chose to reject the appeal. The petitioner agitated the matter by way of a revision before the first respondent and he could not succeed in the revision also. The ultimate order of the first respondent is being put in issue in this writ petition.

2. Mr. K. Ramaswami, learned Counsel for the petitioner, would primarily urge that the decision of the Criminal Court on merits and on identical facts and charges having been rendered in favour of the petitioner, anterior to the disposal of the appeal by the second respondent, it would be unfair and not in consequence with the principles of natural justice to ignore the said decision and penalise the petitioner by the imposition of the penalty. He places reliance on certain pronouncements of this Court, which I shall presently refer to. The submission of the learned Counsel for the petitioner that the judgment of the Criminal Court was on merits and on identical facts and charges is tenable because as I could see from the copy of the judgment in the criminal case, there has been a relevant and appropriate consideration of the factual materials, which are identical and in respect of identical charges and the Criminal Court has categorically opinion that the petitioner could not be found guilty of the charges. In D'Silva

v. Regional Transport Authority 65 LW 73 , a bench of this Court observed as follows :

We have no hesitation in making it clear that a quasi-judicial Tribunal like the Regional Transport Authority or the Appellate Tribunal therefrom cannot ignore the findings and Orders of competent Criminal Courts in respect of an offence, when the Tribunal proceeds to take any action on the basis of the commission of that offence. Let us take the instance before us. The

offence consist in smuggling foodgrains. For that same offence, the petitioner was criminal prosecuted. He has also been punished by his permit being suspended for a period of three months. If the criminal case against him ends in discharge of acquittal, it means that the petitioner, is not guilty of the offence and therefore did not merit any punishment. It would indeed be a strange predicament when in respect of the same offence, he should be punished, by one Tribunal on the footing that he was guilty of the offence and that he should be honourably acquitted by another Tribunal of the very same offence. A primarily the Criminal Courts of the land are entrusted with the enquiry into offences, it is desirable that the findings and orders of the Criminal Courts should be treated as conclusive in proceedings before quasi-judicial Tribunal like the Transport Authorities under the Motor Vehicles Act.

3. I had occasion to refer to the above dictum of the Bench in *Abubacker v. Secretary, Govt. of India* 1981 2 MLJ 405 with reference to the proceedings taken against a party under the Customs Act, 52 of 1962. There, in the case dealt with by me, before the proceedings of the Authorities under the said statute got terminated finally, the Criminal Court rendered its judgment, acquitting the party not on any technical ground, but on the merit of the case and on identical facts and charges. The dictum of the Bench was applied and the proceedings of the departmental authorities were quashed. I find that there is a warrant to apply the above principle to the facts of the present case also. If so applied, the orders passed by the respondents cannot stand and have got to be deleted. Accordingly, this writ petition is allowed. No costs.