
(1990) 12 MAD CK 0068

In the Madras High Court

Case No : Writ Appeals No's. 1151 and 1152 of 1990

Union of India (UOI) and Others

APPELLANT

Vs

Raja Agencies

RESPONDENT

Date of Decision : 19-12-1990

Acts Referred:

Citation : (1993) 42 ECC 166

Hon'ble Judges : A.S. Anand, C.J.;Raju, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

A.S. Anand, C J.

1. Writ Petitions Nos. 1767 and 1768 of 1982 were disposed of by the learned Single Judge by a common Judgment dated 23.9.1988. While W.P. No. 1767 of 1982 was allowed. W.P. No. 1768 of 1982 was dismissed as not pressed. These two Writ Appeals have been filed against the common judgment and are being disposed of by this common order.

2. The learned Single Judge found that no acceptable evidence had been produced by the appellants herein from which it could be found that the bill of lading had been ante-dated. It was found by the learned single Judge that the finding that the bill of lading was ante-dated could not be returned on mere surmises and conjectures. We agree with him. On record, there is no acceptable evidence from which any presumption may be drawn about the ante-dating of the bill of lading. There is a presumption in favour of the entry in the bill of lading and even though that presumption is rebuttable, it has to be rebutted by acceptable evidence, which, in the instant case, was not forthcoming. It was also found by the learned Single Judge that the goods were not liable to confiscation because the submission of the appellants was that what had been imported "should have been palm acid oil" and not coconut acid oil. There was no material on the basis of which such a submission could have been made. It was based on

mere conjectures and therefore the learned Single Judge rightly repelled the contention. Levy of penalty involves proceedings which are quasi-criminal in nature. It is now settled law that to establish a charge it is not only necessary to prove the existence of mens rea, but also that the allegations must be proved beyond all reasonable doubt. On the basis of the materials on record, the allegations against the respondents could not be said to have been proved much less beyond any reasonable doubt. The learned Single Judge therefore rightly allowed W.P. No. 1767 of 1982 and as a consequence thereof, dismissed W.P. No. 1768 of 1982 as not pressed. We do not find any cause to interfere. The Writ Appeals fail and they are dismissed.