

Vimlesh Kumar Vs. the State of Rajasthan

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Court : Rajasthan

Decided On : Mar-31-1994

Reported in : 1994(1)WLN589

Judge : B.R. Arora, J.

Appeal No. : S.B. Criminal Misc. Petition No. 527 of 1993

Appellant : Vimlesh Kumar

Respondent : The State of Rajasthan

Disposition : Petition allowed

Judgement :

B.R. Arora, J.

1. The petitioner, by this miscellaneous petition, had prayed for quashing the proceedings under Section 6A of the Essential Commodities Act, pending against him in Case No. 135 of 1993, in the Court of the Collector, Pali, and for the delivery of the truck No. RNN 7989 on Supurdginama to the petitioner; during the pendency of the case.

2. Truck No. RNN 7989, which is owned by the petitioner, was checked by the Assistant District Supply Officer, Pali, alongwith the Enforcement Party, in front of the godown of Kriya Vikraya Shakari Samati, Sumerpur, on 7.6.93. At the time of

checking, it was found that the truck contained sugar bags. The sugar and the truck were seized. After completing the formalities, the truck was handed-over to Police Station, Sumerpur, and a report was prepared and a criminal case was instituted against Dost Mohammed, Tara Chand and Jayanti Lal for the offences under Sections 406, 420 and 120B I.P.C. and Sections 3, 4, 5(i) and 7 of the Essential Commodities Act, and the matter is still pending before the learned M.J.M. Pali. The Assistant District Supply Officer, also, filed a complaint under Section 6A(i) and (ii) of the Essential Commodities Act before the Collector, Pali, for confiscation of the sugar as well as the truck. The proceedings under Section 6A of the Act are still pending before the learned Collector. An application for the delivery of the truck on Supurdginama and the surly was moved by the petitioner before the learned Collector, Pali, who by his order dated 6.7.93, dismissed the same. Dissatisfied with the order dated 6.7.93, passed by the District Collector, Pali, the petitioner preferred a revision petition before the Sessions Judge, Pali, who dismissed the same vide order dated 19.8.93, on that ground that the order has been passed under Section 6 of the Essential Commodities Act and, therefore, no revision petition is maintainable under Section 397 Cr. P.C. Again, the second revision petition was filed but the learned Sessions Judge dismissed the same by his order dated 1.9.93. The petitioner, also, filed an appeal against the order dated 10.7.93, before the Committee constituted under Section 6(C) of the Essential Commodities Act. The appeal, filed by the petitioner, was dismissed by the aforesaid Committee on the ground that the order dated 6.7.93, passed by the learned Collector, is an...order and against an interlocutory order, no appeal is maintainable before the Committee. The petitioner, aggrieved with the order dated 6.7.93, passed by the Collector, dismissing the application filed by the petitioner on the ground that the truck has been used for illegal purposes, i.e. carrying 130 bags of levy sugar, and, therefore, he did not think it proper to release the truck on Supurdginama as well as the order dated 10.8.93, passed by the Committee constituted under Section 6(C) of the Act as well as orders dated 19.8.93 and 1.9.93, passed by the learned Sessions Judge, Pali, has preferred this miscellaneous petition.

3. It is contended by the learned Counsel for the petitioner that the learned Sessions Judge was not justified in dismissing the revision petition filed by the

petitioner on the ground that it is not maintainable because the order has been passed by the Collector under Section 6A of the Act. The contention of the learned Counsel for the petitioner is that the jurisdiction of the Criminal Court is not ousted in ordering for the delivery of the vehicle in a proceeding under Section 6A of the Act and the Court can pass an order for the safe custody of the vehicle during the pendency of the case. In support of its contention, learned Counsel for the petitioner has placed reliance over *Mirchoo Mal v. The State Committee under the Essential Commodities (Special Provision) Act, 1981* 1983(2) RLW 567 and the *State of Madhya Pradesh and Ors. v. Rameshwar Rathod* : 1990 CriLJ1756 . It has, also, been contended by the learned Counsel for the petitioner that the truck is lying in an open out-side Police Station, Sumerpur, and is exposed to light, sun, air and rains which will result in the damages to the tyre and tubes, body of the truck, its engine etc. and it will, therefore, be in the interest of justice that the truck should be given on *Supurdginama* to the petitioner. The learned Public Prosecutor, on the other hand, has supported the order passed by the learned Collector, the Committee appointed under Section 6(C) of the Act as well as the orders passed by the learned Sessions Judge. It is submitted by the learned Public Prosecutor that the truck was used by the petitioner for carrying 130 bags of levy-sugar and, therefore, the learned Collector was right in refusing to give the truck on *Supurdginama* to the petitioner. It is, also, contended by the learned Public Prosecutor that the order refusing to give the truck to the petitioner is an interlocutory order and, therefore, the Committee was justified in dismissing the appeal filed by the petitioner on the ground of maintainability and the learned Sessions Judge was, also, right in dismissing the revision petitions filed by the petitioner because no revision is maintainable against an interlocutory order.

4. I have considered the submissions made by the learned Counsel for the parties.

5. It has been held by a Single Bench of this Court in *Mirchoo Mal's case* (*supra*) that the order of confiscation, passed under Section 6A of the Act by the Collector is a penal in nature and a criminal revision is maintainable against that order. When a revision petition is maintainable against a final order, passed by the Collector under Section 6A of the Act, then an appropriate order for the delivery of the truck on *Supurdginama* can, also, be passed under Section 482 Cr.P.C. if it is

required to be passed to secure the ends of justice. Admittedly, the order refusing to give the truck on Supurdginama to the petitioner is an interlocutory order and as the revision against the interlocutory order is not maintainable, therefore, the learned Sessions Judge was justified in dismissing the revision petitions filed by the petitioner on the ground of non-maintainability. The learned Committee was, also, justified in dismissing the appeal filed by the petitioner on the ground of maintainability of an appeal against an interlocutory order. The orders passed by the Committee as well as by the learned Sessions Judge, therefore, do not require any interference. But, however, since the truck is lying in an open and is exposed to sun, air, and rains and there are possibilities of its being damaged and no useful purpose will be served in keeping the truck at the Police Station, therefore, I think it proper to direct the learned Collector to give the delivery of the truck in question to the petitioner on Supurdginama by imposing the conditions which he thinks just and proper.

6. With these observations, the miscellaneous petition, filed by the petitioner, is allowed and the learned Collector, Pali, is directed to pass an appropriate order within fifteen days from the date of submission of the certified copy of this order, for delivery of the truck in question on Supurdginama to the petitioner on the terms and conditions which he think just and proper to impose.