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In Re: Gopinathan and anr.

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Court : Chennai

Decided On : Oct-08-1974

Reported in : 1975CriLJ1217

Judge : K.N. Mudaliyar, J.

Appellant : In Re: Gopinathan and anr.

Judgement :
ORDER

K.N. Mudaliyar, J.

1. The two petitioners were convicted of the offence punishable under Section 3 of the S. S. R. read with Section 7 (1) of the Essential Commodities Act. The accusation against them is that on 17-10-1971 at 1 A, M., at Thittankinavilaikulappuram road-junction, the two petitioners were found transporting 63 bags of boiled rice, each bag containing 70 kgs., in lorry, MDK 3057 in the belt area to Kerala without licence or permit. The submission of Mr. Alagiriswami is that this lorry was stopped at a distance of one and a half miles away from the Kerala-Tamil Nadu State-border and therefore, the two petitioners could not be said to export or attempt to export or abet the export of rice from any place within the State of Madras to a place outside the State, for the two petitioners could be actuated by locus paenitentiae before they reached the border of Kerala. In view of the rationale found in the judgments of the Supreme Court in

Jacco v. State Crl. R. C. No. 887 of 1969 and Mallkiat Singh v. State of Punjab : 1970 CriLJ750 and in M. Kasi In re, (1971) MLW 210, I am inclined to hold that the two petitioners cannot be convicted of the offence under Section 3 of the S. S. R. read with Section 7 (1) of the Essential Commodities Act. They are acquitted. The revision petition is allowed. The seized property or the equivalent value thereof may be returned to the owner thereof.

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