

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 16-10-2015

CORAM:

THE HONOURABLE MR. JUSTICE A. SELVAM

Criminal Appeal No.255 of 2007

State rep. by
Seed Inspector, Chennai - II
Office of the Assistant Director of
Seed Inspection
Chepauk, Chennai - 5

Appellant/Complainant

Vs.

R. Govindasamy
S/o. Rengareddy
Proprietor
M/s.Hari Seeds

Respondent/Accused

Criminal appeal under Section 378, Cr.P.C., against the order dated 13-09-2006 in S.T.C.No.542/2005 on the file of the Judicial Magistrate No.II, Ponneri and pray to set aside the order of acquittal.

For appellant :: Mr. P. Govindarajan, Addl.P.P.

For respondent :: No appearance

JUDGMENT

The order of acquittal dated 13-09-2006 passed in Special Calendar Case No.542 of 2005 by the Judicial Magistrate No.II, Ponneri is being challenged in present criminal appeal.

2. The case of the prosecution is that the accused has been running the Company under the name and style of "Hari Seeds" and its main avocation is to produce and distribute seeds to consumers. On 16-12-2004, at about 2:00p.m., the concerned Inspector has inspected the business premises of the accused and taken some samples for the purpose of analysing genuinity and quality of seeds. The samples have been subjected to requisite examination and ultimately found that the same are having 53% of germination. Under the said circumstances, the accused has committed offences punishable under Sections 17(b) read with 6(a) and 19(a)(i) of Seeds Act. The complaint filed on the side of the prosecution has been taken on file in Special Calendar Case No.542 of 2005.

3. The Trial Court after considering the available evidence on record has found the accused not guilty under Sections mentioned in the charge and ultimately, acquitted him. Against the order of acquittal, the present criminal appeal has been preferred at the instance of the complainant, as appellant.

4. The learned counsel appearing for the respondent is not present and in the said circumstances, this appeal is disposed of on merits on the basis of the contention put forth on the side of the appellant/complainant.

5. The learned Additional Public Prosecutor has contended with great vehemence that the accused has been running a Company under the name and style of "Hari Seeds" and its main avocation is to produce and distribute seeds to the public. On 16-12-2004, the concerned Inspector has inspected the seeds and taken samples for the purpose of analysing the genuinity and quality of seeds and subsequently, the samples have been subjected to examination and ultimately, found that they are having only 53% germination points. Under the said circumstances, the accused has committed offences punishable under Sections 17(b) read with 6(a) and 19(a)(i) of Seeds Act. Further, on the side of the prosecution, replete evidence have been adduced. But the Trial Court without considering the evidence available on the side of the prosecution has erroneously acquitted the accused and therefore, the order passed by the Trial Court is liable to be set aside.

6. The consistent case put forth on the side of the prosecution is that on 16-12-2004, some samples have been taken from the Company of the accused for the purpose of analysing its genuinity as well as quality and the same have been subjected to requisite examination and ultimately, found only 53% of termination points. It is seen from the records that Ex-P2 is a document relating to seizure of samples made on 16-12-2005. To prove the same that the concerned samples have been taken from the Company of the accused in Ex-P2 neither signature of the accused nor signature of third person is found place. In Ex-P2, it has been simply stated that the samples have been taken from the Company of the accused. Since Ex-P2 is nothing but a Seizure Mahazar of samples, the same should be signed by responsible persons including the accused. But, as stated earlier, neither the accused nor any third person has signed in Ex-P2. Since in Ex-P2, no signature is found place with regard to actual seizure alleged to have been made by the concerned Inspector, the Court cannot give much adherence to the same. Therefore, it is needless to say that on the side of the prosecution it has not been positively established that the samples mentioned in Ex-P2 have actually been taken from the Company of the accused.

7. The Trial Court after considering the vital lapses on the part of the prosecution has rightly acquitted the

accused. In view of the discussion made earlier, this Court does not found any error or illegality in the order passed by the Trial Court and altogether, this criminal appeal deserves to be dismissed.

In fine, this criminal appeal is dismissed. The order passed by the Trial Court in S.T.C.No.542/2005 dated 13-09-2006 is confirmed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

The Seed Inspector, Chennai - II
Office of the Assistant Director of
Seed Inspection
Chepauk, Chennai - 5

2. The Judicial magistrate No.II
Ponneri.

3. Do Thro the Chief Judicial Magistrate
thiruvallure

4. The Public Prosecutor
High court
Madras.

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