

THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

Criminal Petition No. 9420 of 2009

Order:

This Criminal Petition, under Section 482 Cr.P.C., is filed by the petitioners/A1 and A2 seeking to quash the proceedings pending against them in C.C. No. 226 of 2008 on the file of the II Additional Judicial Magistrate of First Class, Eluru, West Godavari District.

Heard the learned counsel for the petitioners/A1 and A2 and the learned Additional Public Prosecutor for the respondents.

The petitioners/A1 and A2 are the retail Kirana Shop owner and the wholesale dealer respectively and they are prosecuted under the Prevention of Food Adulteration Act. A-3 is the owner of M/s. Damodar Oil Mill, Kurnool, which manufactured the groundnut oil in question. The inspection by the Food Inspector was on 26.05.2003 and the samples lifted on that date were sent for analysis to the public analyst, whose report was dated 25.06.2003. The Food Inspector obtained the written consent of the Food (Health) Authority on 19.08.2006 and ultimately filed the complaint on 26.03.2007.

The petitioners primarily relied on the delay of three years nine months, the lapse between taking of the samples and filing of the complaint, due to which, they lost their valuable right under Section 13(2) of the Act, due to non-compliance with Section 11(4) of the Prevention of Food Adulteration Act.

Learned counsel for the petitioners has relied on the decisions of this Court in **M/s. Ruchi Infrastructure Ltd., v. State of A.P. and another**^[1], CrI.P. No.522 of 2008 decided on 19.02.2008 and CrI.P. No.523 of 2008 decided on 19.02.2008 for the proposition that in the event of the accused being deprived of their right under Section 13(2) read with Section 11(4) of the Act, continuance of the prosecution will

be an empty formality and has to be discontinued. The principle laid down by the learned Judge squarely applies to the facts of the present case and the facts being not in dispute, the benefit of the principle is applicable to the petitioners.

Further, the proceedings against A3, who is the owner of M/s. Damodar Oil Mill, Kurnool, which manufactured the groundnut oil in question, were already quashed, by orders of this Court dated 29.06.2009, passed in Crl. Petition No.4087 of 2008.

Therefore, the further proceedings in C.C. No.226 of 2008 on the file of the II Additional Judicial Magistrate of First Class, Eluru, are quashed in respect of the petitioners/A1 and A2 and the Criminal Petition is allowed accordingly.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

M.S.K. JAISWAL, J.

Date: 03.09.2015
Nsr

[\[1\]](#) 2007(3) LS 352