

THE HON'BLE SRI JUSTICE Dr B. SIVA SANKARA RAO

CRL.P.No.9161 of 2015

ORDER:

This criminal petition is filed by the petitioner/ A.3 under Section 482 Cr.P.C. seeking to quash the proceedings in CC No.167 of 2005 on the file of the learned Judicial Magistrate of First Class, Nagarkurnool, Mahaboobnagar District. Among 4 accused of whom A.4 is the entity of M/s VBS Extraction and Refineries Private Limited represented by A.3 herein as Managing Director and A-2 Krishnaian is the proprietor (since died) and A.1 is sales man of M/s Krishnaiah Stocks and Agencies of Jedcherla. The offence for which, the Food Inspector alleged to have filed the private complaint to prosecute the accused persons (supra) are under Section 7(i) & (v) and 2(ia)(m) of PFA Act, 1954 and Rule-44 (e) of PFA Rules, 1955 and also under Section 16 (1)(i) of PFA Act, 1954.

2. The petitioner/A.3 sought quashing of the C.C. proceedings (private warrant procedure) referred supra, with the contentions that on 31.08.2001, the samples were taken, that were sent for analysis to the Public Analyst later on 01.09.2001 and the test report was received on 16.10.2001 and though obtained written consent on 28.05.2002, the de facto complainant filed the complaint after more than an year only on 30.6.2003, with no explanation for the delay to say for 22 months after the sample was collected and on account of the abnormal delay, the petitioner lost his valuable right of defence conferred under Section 13(2) of the Act and even the names of accused persons including the petitioner herein were not mentioned in the prosecution order dated 28.5.2002 issued by the Directorate of Institute of Preventive Medicine, Public Health Labs & Food (Health) Administration, Hyderabad; that another bench of this Court by order dated 23.8.2013 in Crl.P.No.12459 of 2010 quashed the proceedings in CC No.167 of 2005 on the file of the Judicial Magistrate of First Class, Nagarkurnool,

in so far as A.4 concerned, and since the case is squarely covered by three expressions of this Court to quash the proceedings and thereby the proceedings are liable to be quashed. It is also the contention that there was no any other material except labels affixed to the containers and the manufacturer or its nominee shall not be prosecuted without any connecting documentary evidence.

3. For the contentions the petitioner placed reliance upon the expression in **Radheshyam Lohiya and another v. State of Andhra Pradesh**^[1].

4. The proceedings in so far as A.4 entity referred supra, to which, A.3 is the Managing Director are quashed by the order of another bench of this Court dated 23.8.2013 in CrI.P No.12459 of 2010; mainly by relying upon the **Radheshyam Lohia** supra and that order is made final is not in dispute as per the Public Prosecutor on behalf of the State representing the Food Inspector.

5. Having regard to the above, there is nothing to continue the proceedings against A.3, merely because, he is separately arrayed as Managing Director in the absence of any specific allegations and in relation to the manufacturing and supply of the filtered ground nut oil (Abhilas Brand) that was purchased by the Food Inspector in collecting the sample from the shop of A.2 since died and A.1 is only a sales man and nothing also to made him personally responsible.

6. Hence, this Criminal Petition is allowed and all the proceedings relating to C.C. No.167 of 2005 on the file of the learned Judicial Magistrate of First Class, Nagarkurnool, Mahaboobnagar District, in so far as the petitioner/A.3 as well as A.1-M.Karunakar (salesman of late A.2) concerned that remained are hereby quashed as so far as A.4 concerned already quashed in CrI.P.No.12459 of 2010. The bail bonds of the petitioners/A.3 and A.1, if any, shall stand cancelled.

Miscellaneous petitions, if any pending in this Criminal Petition,
shall stand closed.

JUSTICE Dr B. SIVA SANKARA RAO.

Date : 02-11-2015
Gvl

[\[1\]](#) 2008(2)ALD CrI 715