

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.6464 of 2015

ORDER :

This Criminal Petition is filed by the Petitioners/Accused Nos.1 and 2 under Section 482 Cr.P.C seeking to quash the proceedings in C.C. No.217 of 2006 on the file of the Judicial Magistrate of the First class, Magistrate at Nandyal, Kurnool District registered for the offence punishable under Section 16(1)(a)(i) of Prevention of Food Adulteration Act, 1954.

2) Heard the learned counsel for the petitioners and also the 1st respondent-State represented by the Public Prosecutor on behalf of the complainant-Food Inspector and perused the material on record.

3) A perusal of the complaint proceedings of the Food Inspector against six accused including the petitioners/A-1 and A-2 herein show that the bottle was claimed manufactured on 30.05.2014 with validity of Six months period to expire and the sample seized on 26.10.2004 and the food inspector send his sample to the Public Analyst on 27.10.2004 vide registered post receipt No.7365, dated 27.10.2004 and registered parcel receipt No.2515, dated 27.10.2004 and the analyst report in Form III bearing No.753 of 2004 dated 06.12.2004 received with covering letter No.2163/SFL/2004 of even date opening

that the sample does not confirm, to the standards of Aerobic Microbial count and mould count and it is adulterated therefrom.

4) The contention of the petitioners herein is the analysis was done after the six months period of expiry and thereby analyst report cannot be a basis to continue the prosecution. In fact said analyst report is not placed before the Court to say when it was analyzed i.e., on or before 30.11.2004 after which time six months period of validity expire. Without which the petitioners cannot seek the relief to quash the said complaint proceedings.

5) Having regard to the above, the material falls short for this Court to admit the application for quashing under Section 482 Cr.P.C, the petition is disposed of giving liberty to file any application for discharge, if no grounds to frame charge after recording evidence of the complainant and witnesses under section 245 Cr.P.C. It is needless to say in the event of framing charges under that provision for no grounds to discharge, the learned Magistrate shall take up the trial as the case is of the year 2006 and also by giving disposal of the case as expeditiously as possible preferably within three months from the date of framing of charges if any. It is represented that there is a stay of proceedings obtained by A-5 and A-6, the learned Magistrate can split up the case, if necessary, by invoking Section 317 Cr.P.C.

6) With the above observations, this criminal petition is disposed of. As a sequel, miscellaneous petitions pending, if any, in this criminal petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

22.07.2015

ksh