

THE HON'BLE SRI JUSTICE RAJA ELANGO

Criminal Petition No.9570 of 2013

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C seeking to quash the proceedings in C.C.No.275 of 2012 on the file of the Additional Judicial First Class Magistrate, Gudivada, Krishna District as against petitioners - accused Nos. 3 and 4 for the offence under Section 7(1), 2(ia)(m) of Prevention of Food Adulteration Act, 1954, punishable under Section 16(1)(a)(i) of PFA Act, 1954.

The brief facts of the case are as follows :

The case of the prosecution is that on 05-05-2008, the Food Inspector, complainant herein, went to the shop of accused No.1 and found accused No.1 transacting the business. Further, the complainant on suspicion of adulteration, drawn the samples of Kissan mixed fruit jam before two independent mediators as per the procedure prescribed under the Act and obtained acknowledgement from accused No.1. One part of the sample was sent for analysis to the public analyst, who after examination of the sample opined that the sample does not conform to the standards of one of the Class II preservative and hence it is adulterated as per Section 2(ia)(m) of PFA Act, 1954. Further, after obtaining written sanction from the Director, Institute of Preventive Medicine, Food (Health) Authority, Hyderabad, prosecution was launched against accused Nos.1 to 4.

The petitioners are manufacturers of the said product. According to petitioners, they are not marketing the same directly. The complaint is filed on the basis of the self-declaration on the manufactured good i.e., Kissan mixed fruit jam bottle. Admittedly, accused Nos.1 and 2 neither produced any invoice nor informed to the authorities concerned that they purchased the product from any of the retailer or wholesaler, whereas the complaint is filed on the self-declaration. Admittedly, the jam was packed in the year 2007. Even as per the self-declaration, the period of jam concerned is for one

year, whereas, the complaint was filed only on 26-03-2012 after lapse of more than three years and thereafter notice was served on petitioners. In view of the delay, the right guaranteed to petitioners under Section 13 (2) of the Act is frustrated. Apart from that, unless and otherwise there is any material to connect the accused with the crime, solely based on the self-declaration on the bottle concerned, the proceedings against the petitioners herein cannot be continued.

Hence, the proceedings against the petitioners – accused Nos.3 and 4 in C.C.No.275 of 2012 on the file of the Additional Judicial First Class Magistrate, Gudivada, Krishna District, are hereby quashed. However, if any evidence is brought to light against the present petitioners during the trial, the learned Magistrate is at liberty to proceed against the present petitioners also.

Subject to above observation, the Criminal Petition is allowed.

Consequently, the miscellaneous petitions pending, if any, in this Criminal Petition shall stand closed.

JUSTICE RAJA ELANGO

Dated: 29.09.2015

skmr