

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Crl.A.No.1245 of 2014

JUDGMENT :

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This appeal is filed by the State challenging judgment dt.24.08.2011 in C.C.No.547 of 2010 on the file of Hon'ble Judicial First Class Magistrate, Kothagudem, Khammam acquitting the accused of offences committed under Section 7(i)2(ia)(m) of Prevention of Food Adulteration Act, 1954 r/w Section 16(1)(a)(i) & (ii) of the said Act, (for short, 'the Act').

2. The case of prosecution is that PW.1 visited the shop of accused by name M/s. Laxmi Jaggery Rice and General Merchants on 21.08.2009 at 03:30 p.m. for inspection in the presence of accused; that PW.1 disclosed his identity and purpose of his visit; that PW.1, on suspicion that jaggery is adulterated, purchased sample of jaggery of 900 gms under cover of Panchanama and sent it for analysis to the Public Analyst at State Food Laboratory, Nacharam, Hyderabad for opinion; when the said Analyst rendered an opinion under Ex.P.11, dt.03.11.2009, stating that the sample is adulterated, he filed the complaint. The accused denied the charges framed and claimed to be tried.

3. The incriminating evidence in the prosecution's

case was put to the accused under Section 313 Cr.P.C. examination, but the accused denied the same.

4. By judgment dt.24.08.2011, the Court below acquitted the accused.

5. Questioning the same, this appeal is filed.

6. The learned Public Prosecutor contended that the judgment of Court below is contrary to law and unsustainable; and that the court below erred in acquitting the accused of charge.

7. Under Section 13(2) of the Act, notice of Analyst report addressed to accused must be given to accused along with a copy of such report, informing the accused that if he so desires, he can make an application to Court within (10) days from the date of receipt of a copy of report to get the said sample of article of food kept with the Local (Health) Authority sent to Central Food Laboratory. The said provision of law is mandatory.

8. It is not in dispute that PW.1 had lifted the sample of jaggery on 21.08.2009, that the Public Analyst sent his report-Ex.P.11 on 03.12.2009, but the complaint was filed on 19.04.2010 and notice under Section 13(2) of the Act was sent on 22.07.2010 with a delay of about one year. Had the complaint been filed immediately, the sample taken could have been got tested by accused by the Central Food Laboratory. The delay of one year would

lead to deterioration in the sample. So the accused would be handicapped in his defence and would be denied opportunity to seek a reference to Central Food Laboratory and prove that the report Ex.P.11 of Public Analyst of State Food Laboratory, is wrong.

9. No explanation is forthcoming as to the cause for such delay in issuing notice under Section 13 (2) and in sending the analyst report to the accused. Also, PW.2-Panch witness, did not support the prosecution case.

10. In view of these circumstances, it cannot be said that prosecution has proved the guilt of accused beyond reasonable doubt. Therefore, I am of the opinion that the Court below had rightly acquitted the accused and that its judgment does not warrant any interference in appeal. Therefore, the Criminal Appeal is dismissed.

11. Miscellaneous applications, pending if any in this Appeal, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 09-02-2015

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