

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No.462 of 2014

ORDER:

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1. This Criminal Petition is filed by the petitioners-accused Nos.2 & 3 under Section 482 Cr.P.C. seeking to quash the proceedings against them in C.C.No.471 of 2008 on the file of the Judicial First Class Magistrate, Vemulawada, Karimnagar District.

2. The petitioners along with other accused is alleged to have violated the provisions of Section 7 (i) and 2 (ia) (m) of the Prevention of Food Adulteration Act, 1954, which is punishable under Section 16 (1)(a) (i) of the Act.

3. The brief facts of the case are as under:

A1 in the above case was running a Kirana shop in the name and style of Raja Rajeswara Kirana at Gangadhara X road, Gangadhara Mandal, Karimnagar District. On 19-08-1999 at about 11.00 A.M., the Food Inspector along with his staff visited the shop of A1 and found him managing the business. The Food Inspector, after disclosing his identity, inspected the shop and found 20 packets of Groundnut oil (Sweekar Brand)-1 litre packets, marketed by Marico Industries Limited, Mumbai, apart from other food articles. When the Food Inspector enquired A1 about the Groundnut oil packets, he stated that the said Groundnut oil is meant for sale for human consumption, but he failed to disclose the sources of supply. The Food Inspector purchased 375 gms. of Groundnut oil from one of the groundnut oil packets (Sweekar Brand) and paid a sum of Rs.18.75 ps. to him as per his demand towards the cost of the oil and obtained cash receipt from him. Thereafter, the Food Inspector issued Form-VI notice to A1. After complying with the mandatory requirements as contemplated under the Act, the Food Inspector sealed the samples and sent one part of

the same to the Public Analyst, State Food Laboratory, Hyderabad, on 20-08-1999 in a sealed cover. The remaining two parts of the sample were sent to the Director, Institute of Preventive Medicine, Public Health Laboratories and Local (Health) Authority, A.P., Hyderabad, for safe custody. On 20-08-1999, the Food Inspector dispatched a notice under Section 14-A of the Act to the Manufacturer as per the label declarations found on the Groundnut oil packet. On 7-10-1999, the Food Inspector received Public Analyst Report dated 30-09-1999, wherein it was opined that the Groundnut oil (Sweekar Brand) sample does not conform to the standards of "Bellier's test (turbidity temperature) – Acetic Acid Method and Iodine value". On receipt of the said report, the Food Inspector by his letter dated 14-10-1999 called for the business particulars of the manufacturer of the said product. He received a reply from the manufacturer stating that A-2-Pravin Neheta, Manager- Quality Assurance for their products "Sweekar", is their nominee with relevant nomination of persons and the duly acceptance of the nominee (consent) under Section 17 (2) of the Act and Rule 12-B of the Rules. After perusing the material submitted by the Public Analyst, the Director, Institute of Preventive Medicine, Public Health Laboratories and Food (Health) Administration accorded written consent under Section 20 (1) of the Act on 01-03-2000. After receipt of the said written consent, the present complaint is lodged against all the accused including the petitioners.

4. Heard and perused the material available on record.

5. Learned Counsel for the petitioners submitted that A1 in the above Crime filed Criminal Petition No.9050 of 2009 seeking to quash the proceedings against him in the above C.C., and the said Criminal Petition was allowed on the ground that the prosecution was launched much after expiry of the shelf-life of the product i.e., nearly one year three months from the date of manufacture of the product, thereby

depriving the valuable right of the petitioner under Section 13(2) of the Act in getting the sample analyzed through a Central Lab, and the same benefit may be extended to the petitioners.

6. While quashing the proceedings against A1 in Criminal Petition No.9050 of 2009, this Court observed as follows:

“A perusal of the averments made in the complaint indicates that the produce, which was alleged to have been seized from the petitioner on 19-08-1999, was from a sealed container. The manufacturing date as disclosed on the container is March, 1999. Basing on the label declaration, the Food Inspector sent notice to the 3rd accused, the manufacturer of the said oil. The correspondence between the Food Inspector and the Manufacturer does not anywhere disclose that the said product was manufactured by the petitioner. The date of manufacture of the product is March, 1999, it was lifted from the shop of the petitioner in the month of August, 1999 and the complaint came to be lodged in May, 2000. Obviously, the prosecution is launched much after the shelf-life of the product expired i.e. nearly one year three months from the date of manufacture of the product thereby depriving the petitioner of his valuable right under Section 13 (2) of the Act in getting the sample analyzed through a Central Lab. In this regard, the learned Counsel for the petitioner placed before the Court the orders passed by this Court in Criminal Petition Nos.2533 of 2009 and 522 of 2008 wherein this Court quashed the proceedings on the ground that no useful purpose would be served in launching the proceedings when the accused was deprived of his right in getting the sample re-analyzed. The view taken by this Court holds the field and squarely applies to the facts of the present case. Further, the manufacturer to whom a notice was issued disputed manufacturing of the said product. Therefore, the petitioner has to succeed.

7. Even though the material on record shows that the case against the petitioners is on different footing, but in view of the fact that the earlier Criminal Petition is allowed on the ground of deprivation of the rights of the accused for getting the sample re-analyzed under Section

13(2) of the Act, and in view of the fact that A3 is the manufacturer and A2 is the person, who is authorized to defend the case, the analogy adopted by this Court in respect of A1, can be made applicable to the present petitioners also. Therefore, this Court is inclined to quash the proceedings in the above C.C. against the petitioners.

8. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioners-A2 and A3 in C.C.No.471 of 2008 on the file of the Judicial First Class Magistrate, Vemulawada are hereby quashed. Consequently, Miscellaneous Petitions, if any, pending shall stand closed.

JUSTICE RAJA ELANGO

Dated: 16th February, 2016
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THE HONOURABLE SRI JUSTICE RAJA ELANGO

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