

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE No.2137 OF 2015

ORDER:

This Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C. challenging the order dated 10.09.2015 passed in CrI.M.P.No.4594 of 2015 in C.C.No.2135 of 2012 on the file of the Court of the Judicial Magistrate of First Class, Tiruvuru.

2. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

3. A perusal of the record reveals that the petitioner/A.1 is facing trial in C.C.No.2135 of 2012 for the offence punishable under Section 16(1-A) (i) of the Prevention of Food Adulteration Act, 1954. The petitioner filed CrI.M.P.No.4594 of 2015 in C.C.No.2135 of 2012 under Section 239 of Cr.P.C. for discharge. The trial Court dismissed the petition on the ground that the material available on record is *prima facie* sufficient to proceed further against the petitioner. A perusal of the record reveals that initially the case was registered against A.1 and A.2. A.2 is none other than the husband of the petitioner/A.1. It further reveals that A.2 had obtained licence to carryon the business.

4. Accused No.2 filed Criminal Petition No.7620 of 2014 under Section 482 of Cr.P.C. to quash the proceedings against him. This Court allowed the petition on 16.07.2014 with the following observations:

“The present case is filed under the provisions of the Prevention of Food Adulteration Act. Where black jaggery

itself is considered to be not a food item through the circular dated 22.12.2001, prosecuting the petitioner for any of the offences under the provisions of Prevention of Food Adulteration Act is not sustainable. Consequently, prosecution of the petitioner for the offence under Section 16(1-A)(i) of the Prevention of Food Adulteration Act is not sustainable as it is misconceived. Consequently, C.C.No.2135 of 2012 on the file of the Judicial Magistrate of First Class, Tiruvuru, Krishna District, is quashed as against the petitioner/A2.

In the result, the Criminal Petition is allowed. Miscellaneous Petitions, pending if any in this Criminal Petition, shall stand closed.”

5. A perusal of the record clearly reveals that the alleged offence will not fall within the ambit of Section 16(1-A)(i) of the Prevention of Food Adulteration Act. For one reason or other, the petitioner has not produced the order of this Court before the trial Court. Even if the allegations made in the charge sheet are *ex facie* taken to be true and correct, no *prima facie* case is made out against the petitioner/A.1.

6. Having regard to the facts and circumstances of the case and also the order of this Court dated 16.07.2014 passed in Criminal Petition No.7620 of 2014, I am of the considered view that it is a fit case to set aside the order dated 10.09.2015 passed in CrI.M.P.No.4594 of 2015 in C.C.No.2135 of 2012 on the file of the Court of the Judicial Magistrate of First Class, Tiruvuru.

7. In the result, the Criminal Petition is allowed setting aside the order dated 10.09.2015 passed in CrI.M.P.No.4594 of 2015 in C.C.No.2135 of 2012 on the file of the Court of the Judicial

Magistrate of First Class, Tiruvuru and the petitioner/A.1 is hereby discharged.

8. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Revision Case shall stand closed.

T.SUNIL CHOWDARY, J

Date: 08.11.2016

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