

**THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY**

**CRIMINAL PETITION No.16115 OF 2016**

**ORDER:**

This criminal petition, under Section 482 of Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed to quash the proceedings in STC No.104 of 2014 pending on the file of Judicial Magistrate of First Class, at Kurnool, against the petitioner for the offences punishable under Sections 3(1)(zz)(i)(iii)(xi), 26(2)(i) of Food Safety and Standards Act, 2006 (for short, 'the Act').

The sole ground urged before this Court is that the prosecution is barred by limitation and drawn the attention of this Court to Section 77 of the Act.

Admittedly, the sample was taken on 26.02.2013 and complaint was filed on 25.02.2014, between these days samples were sent to laboratory and again Central Laboratories and final report was received on 31.05.2013. Therefore, the complaint is filed within one year from the date of commission of offence i.e. 26.02.2013. Hence, the complaint is not barred by limitation and the court is competent to take cognizance of the offence in view of Section 77 of the Act. On the ground of bar of limitation to take cognizance, the complaint cannot be quashed.

The counsel for the petitioner, at the end of his argument, requested to dispense with the personal appearance of the petitioner before the court on all days except on the days when his presence is required.

But the petitioner can apply to the Judicial Magistrate of First Class, Kurnool, Kurnool District, under Section 205

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Cr.P.C. and if the Magistrate satisfied with the reason for dispensing the appearance of the petitioner, may pass such order and this Court while exercising jurisdiction under Section 482 Cr.P.C. cannot exercise such power and since it is to the satisfaction of the Magistrate.

Therefore, on over all consideration, I find that the complaint is not barred by limitation, and there is no ground to quash the proceedings. Therefore, the criminal petition is liable to be dismissed.

In the result, the criminal petition is dismissed. However, the petitioner is permitted to file appropriate application before the Judicial Magistrate Of First Class, Kurnool District, to dispense with his appearance, after issuing notice to the respondent, and on filing such application, the Judicial Magistrate of First Class is directed to decide the same on the same day.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

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**M. SATYANARAYANA MURTHY, J**

Date: 18.11.2016  
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