

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2017

Coram

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl. Revision Case No.19 of 2014

Uniphos Seeds & Bio Genetics
Rep. by its Regional Manager
V.Soundararajan S/o.Veerappa Yaday
7/79,Nagendra Nagar Colony,
Hudsiguda, Hyderabad 500 007.

... Petitioner/Accused.

//vs//

B.Ramesh M.Sc (Agri),
Seed Inspector, Pollachi,
O/o.Asst.Director of Seed Inspection,
1424-A Thadagam Road, G.C.T.Post,
Coimbatore.

... Complainant/Respondent

Prayer: Criminal Revision Petition filed under Section 397 read with 401 of the Code of Criminal Procedure praying to allow the Revision and discharge the petitioner from the CC.No.85/2008 and dismiss the complaint itself as not maintainable.

For Petitioner : M/s.Loganathan

* * * *

ORDER

The criminal revision has been filed against the order dismissing the petitioner's application to discharge them from the criminal charges.

2. Earlier, when the matter was posted for hearing on 05.04.2017, at the request of the learned counsel for the petitioner, the matter was adjourned to 12.04.2017 and on 12.04.2017, since there was no representation for the petitioner, hence the matter was posted under the caption "for dismissal" on 18.04.2017 and on that day, at request of the learned counsel for the petitioner, the matter was posted for orders today. Even today, there is no representation on behalf of the petitioner. Since the petitioner is deliberately avoiding to appear before this Court, this Court proceed to dispose the matter on merits.

3. The petitioner is an accused in a complaint filed by the respondent for contravention of clause 8(a) and 13(1)(c) of Seeds Control Order r/w. 7(i)(a)(i) of the Essential Commodities Act.

4. The case of the complainant is that the petitioner herein has produced and distributed the sub-standard Hybrid Maize "Vikram 1(TFL)" Seed. On 10.10.2006, the Seed Inspector, Pollachi, inspected the business premises of the petitioner and drew samples of the "Vikram 1 (TFL)" Hybrid maize: lot 812 for germination genetic purity analysis. After taking the sample, it was sent to Seed Analyst (Genetic purity), Coimbatore. The report of the Seed Analysis discloses that the seeds has

only 82% of genetic purity as against 95% for Hybrid Maize seeds as notified by the Government of India vide S.O.No.1041(E) dated 28.12.1993. Hence, after completing the formalities, a complaint has been filed and the complaint was also taken on file by the learned Judicial Magistrate No.II, Pollachi. Thereafter, the petitioner filed an application under Section 245(1) Cr.P.C., to discharge him from the above said charges. The above said application has been filed on the ground that the petitioner is only a purchaser of the seeds and he is not a dealer and the said order is not applicable to him and as per the provisions of the Seed Control Order, analysis has to be completed within a period of 60 days. But, in this case, report has been obtained only after 90 days and the person who have taken the sample is not authorized officer under the Control order.

5. The court below considering all the above issues has held that the complainant is an authorized person to take sample as per G.O.Ms.No.389 Agriculture (AP-II) 01.10.2007 issued by the Government in this regard. So far as the limitation is concerned, the court below after referring to a manual issued by the Central Government has held that the provisions of the Seeds Control Order is also applicable to the manufacturer, who is also distributing the seeds. After considering all

the materials, the court below came to a conclusion that there are prima facie materials available as against petitioner to proceed further and dismissed the discharge petition.

6. I have carefully considered the materials available on record and I am fully satisfied that there are prima facie materials available on record to proceed against the petitioner and there is no ground to discharge the petitioner.

7. In the above circumstances, I find no illegality or irregularity in the order passed by the court below. Hence, there is no merits in the revision and the revision is liable to be dismissed.

8. Accordingly, the Criminal Revision Case is dismissed.

26.04.2017

mrp

Index : yes/no

Internet; Yes/no

Speaking order/non speaking order

To

1. The Learned Judicial Magistrate No.II,
Pollachi.
2. The Public Prosecutor,
High Court, Madras.

V.BHARATHIDASAN, J.

mrp

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