

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.12990 OF 2011

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure (Cr.PC.), is filed by the petitioner-accused No.1 seeking to quash the proceedings against her in CC.No.346 of 2011 on the file of the Judicial First Class Magistrate, Anaparthi, East Godavari District, for the offences punishable under Sections 7(i), 2(ia)(j) of Prevention of Food Adulteration Act, 1954 ("the Act" for brevity) read with Rule 29 of the Prevention of Food Adulteration Rules, 1955, on the sole ground that a complaint is not maintainable under the provisions of the Repealed Act since the Prevention of Food Adulteration Act was repealed on 29.07.2010.

Learned counsel for the petitioner-accused No.1 brought to the notice of this Court the notification issued by the Ministry of Health and Family Welfare dated 29.07.2010 in S.O.1855(E) by which the Food Safety and Standards Act, 2006 (34 of 2006) came into force on account of notification repealing the Prevention of Food Adulteration Act.

Admittedly, the sample was lifted on 25.02.2011 at 5.30 pm as per the allegations made in paragraph No.4 of the complaint. By that date, the Act was in not in force and thereby, the Food Inspector is incompetent to exercise his power under the Act to lift the sample. In view of repealing of the Prevention of Food Adulteration Act, lifting the sample by the Food Inspector is an illegality and therefore, the proceedings against the petitioner-accused No.1 shall not be continued, as there exist no *prima facie*

ground to proceed against her for the alleged offences under the provisions of the repealed Act.

In the result, the Criminal Petition is allowed and the proceedings against the petitioner-accused No.1 alone in CC.No.346 of 2011 on the file of the Judicial First Class Magistrate, Anaparthi, East Godavari District for the offences punishable under Sections 7(i), 2(ia)(j) of Prevention of Food Adulteration Act, 1954 read with Rule 29 of the Prevention of Food Adulteration Rules, 1955, are quashed by exercising power under Section 482 Cr.P.C. Miscellaneous petitions, if any, pending shall stand closed.

(M.SATYANARAYANA MURTHY, J)

20th January 2017
RRB

