

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No. 12606 OF 2010

ORDER :

The petitioner is A.2 among two accused of C.C.No.287 of 2009 on the file of the Addl.Judl.Magistrate of First Class, Manuguru Khammam District, outcome of a private complaint lodged by the Food Inspector, Division-III of Khammam District and it was taken cognizance for the offences punishable u/sec.7(i) & 2(ia)(m) of the Prevention of Food Adulteration Act,1954 (for short, 'the Act') and violation of the Rule 50 of the Rules under the Act.

The grounds urged in the quash petition are that the complainant visited the premises of M/s Sambaiah Kirana and General Stores-proprietary concern of A.1 V.Sambaiah, at Bandarigudem village, Manuguru Mandal, and purchased 6x100 grams sealed packets of Jeera and sent the same to the public analyst duly appointed under the Act, for analysis and received opinion of the sample showing that the sample does not confirm the standards and thereby it is adulterated one as per Section 2(ia) and (m) of the Act, and thus the complainant purchased Jeera bags only from A.1 and there is no material to say the same manufactured or supplied by the petitioner-A.2 to sustain the prosecution against A.2 and in the complaint also there is nothing of any source of disclosure by A.1 of purchased from A.2 and A.2 is Manufacturer-cum-Supplier and prosecution is thereby unsustainable as the cognizance taken

mechanically without any foundation. It is thereby sought to quash the proceedings.

The learned Public Prosecutor representing the State and the Food Inspector(respondents 1 and 2) submits that there is prima facie foundation for the accusation against the petitioner/A.2 who manufactured and supplied to the A.1 the adulterated food item and the learned Magistrate rightly taken cognizance and was tried along with A.1 and there is nothing to quash the proceedings.

In fact, a reading of the complaint discloses that at the time of inspection of the shop of A.1 by L.W.1-complainant, the complainant disclosed his identity called the witness Chakka Balu, and verified the APPFA license and further inspected 6 cartons containing 100grams sealed boxes labeled as Deepak Kirana and Spices, JEERA, PKD: July,2008, Manufactured by M/s Sruthi industries, D.No.45-18-6/1,Thadi Thota, Rajahmundry-533103, kept for sale to the public meant for human consumption besides other food articles and on suspecting the standard, he purchased 6x100 grams sealed packets of Jeera labeled as above having paid Rs.84/- obtained receipt and collected samples and sent to analyst and intimated in Form-VI notice to A.1 about the purchase and collection of sample taken in his presence to be sent to the public analyst. Then divided the samples into three equal parts each 3x100grams sealed packets in its original condition as one part and kept in three clean dry empty plastic containers caped tightly and tied with twine and sealed them and

pasted each container with label and wrapped in a thick brown paper, ends are folded neatly and pasted with gum and fixed paper slips with due care and the panchanama was drafted there and notice was u/sec.14(a) to the Manufacturer as per the label declaration on the sealed packets for ownership/Nominee particulars and after analysis, obtained report along with a covering letter with the analyst opinion that the sample does not confirm the standard and it is thereby adulterated one and submitted detailed report to the Director and obtained necessary sanction and launched prosecution and thereby the private complaint.

From this, there is nothing to show any reply received pursuant to the so called notice sent to the alleged Manufacturer pursuant to the label particulars and there are no documents filed regarding any acknowledgment of the so called notice sent with an opportunity to respond. It is not even a case of the prosecution that when he was at the shop of A.1, the A.1 disclosed identity of the manufacturer or supplier as A.2. A.2's name is D.Srinivas and the label contains Deepak Kiranana and Spices, JEERA, PKD: July,2008, Manufactured by M/s Sruthi industries, and not even in the name of the petitioner D.Sreenivas and it was not properly considering in according the sanction for prosecution of the petitioner-A.2 so as to take cognizance. This court in CrI.P.No.13061 of 2010 dated 26.07.2013 in this regard observed that in the absence of any evidence by the Food Inspector showing the petitioner is the Manufacturer of

the food item that was found adulterated, the prosecution is not sustainable against so called manufacturer.

Having regard to the above, the Criminal Petition is allowed by quashing the proceedings in C.C.No.287 of 2009 on the file of the Judl.Magistrate of First Class, Manuguru, Khammam district, against the petitioner/A.2. The petitioner/A.2 is acquitted and his bail bonds shall stand cancelled.

Consequently, the pending miscellaneous petitions, shall stand closed.

Date:30.08.2017
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Dr. B. SIVA SANKARA RAO J,