

**IN THE HIGH COURT OF JUDICATURE FOR THE STATE OF TELANGANA
AND ANDHRA PRADESH AT HYDERABAD**

TUESDAY THE NINETEENTH DAY OF DECEMBER
TWO THOUSAND AND SEVENTEEN

PRESENT

HONOURABLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL PETITION NO.3338 OF 2011

Between:

K. Madhusudhan Rao & Anr. ... Petitioners

 $V/s.$

The State of Andhra Pradesh
Represented by Public Prosecutor
High Court, Hyderabad ... Respondent

Counsel for Petitioner : Sri Nimmagadda Satyanarayana

Counsel for Respondent : Public Prosecutor [AP]

The court made the following : [order follows]

HONOURABLE SRI JUSTICE P. KESHAVA RAOCRIMINAL PETITION NO.3338 OF 2011**ORDER:**

Heard the counsel for the petitioner as well as the learned Public Prosecutor.

2. The present Criminal Petition is filed by A-1 and A-2 to quash the proceedings initiated against them in CC.No. 35 of 2006 for the offences punishable under section 7 [1] and 2 [ia] and 16 [1] [a] [i] of Prevention of Food Adulteration Act, 1954 on the file of the Court of Judicial Magistrate of First Class, Addanki, Prakasam district.

3. The facts of the case are that on 07/07/2005 at about 12:30 p.m., the Food Inspector along with his attender visited the oil shop of the first petitioner and he purchased three packets of oil and sent one of them to State Food Laboratory for analysis after due procedure. The State Food Laboratory gave a report stating that the sample does not conform to the standard of acid value and therefore, adulterated. The Food Inspector after obtaining permission from the Director and Food

[Health] Authority, Hyderabad, filed a complaint against the petitioner and two others and the same was taken on file vide CC.No.35 of 2006 for the offences under section 7 (i) and 2 (ia) (m) punishable under section 16 (1) (a) (i) of Prevention of Food Adulteration Act.

4. The counsel for the petitioners while making the submissions contended that the shelf life of the period of oil is six months and the label declaration on the packet also discloses “best before six months”. The date of manufacture of oil is June, 2005. After receipt of the analysis report from the State Food Laboratory on 06/08/2005 and after taking permission from the Director, the complaint was filed on 08/02/2006 i.e., nearly nineteen months after the date of packing of the oil and thereby violated the provisions of 11 [4] of Prevention of Food Adulteration Act, which mandates that the samples have to be produced before the Court within seven days from the date of receipt of the report. Because of the inordinate delay, the petitioners have lost the valuable right under section 13 [2] of Prevention of Food Adulteration Act for sending the second sample to the Central Laboratory.

5. The counsel for the petitioners also brought to the notice of this Court that on earlier occasion A-3 and A-4 in the present case have approached this Court by filing Criminal Petition No.2559 of 2007. This Court after appreciating the facts was pleased to allow the Criminal Petition No.2559 of 2007, by orders dated 07/12/2007 and thereby quashed the proceedings initiated against them in CC.No. 35 of 2006.

The relevant portion in the above said orders is as follows :

“ In view of the principles laid down in the above decisions and in view of the fact that there has been a delay of more than 18 months in filing the complaint thereby depriving the accused of his valuable right under section 13 (2) of the Act because of the violation of the mandatory requirements under section 11 [4] of the Act, it is held that no useful purpose would be served by continuing the prosecution against the petitioner.”

6. Therefore, this Court feels that when once there is a finding of this Court that there is inordinate delay of more than 18 months in filing the complaint, thereby depriving the petitioners of their valuable right under section 13 (2) of the Act, no useful purpose would be served in continuing the proceedings against the petitioners.

7. Accordingly, the Criminal Petition is allowed, quashing the proceedings initiated against the petitioners herein in CC.No. 35 of 2006 for the offence punishable under section under section 7 (i) and

2 (ia) (m) punishable under section 16 (1) (a) (i) of Prevention of Food Adulteration Act, on the file of the Court of Additional Judicial Magistrate of First, Class, Addanki, Prakasam district.

8. As a sequel, miscellaneous petitions if any, pending in this criminal petition shall stands closed.

JUSTICE P. KESHAVA RAO.



19/12/2017
I s L

HONOURABLE SRI JUSTICE P. KESHA RAO

CRIMINAL PETITION NO. 3338 OF 2011
[ALLOWED]



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