

HON' BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No. 6807 OF 2017

ORDER :

The petitioners are the accused 1 and 2 of C.C.No.306 of 2016 pending on the file of the learned Addl.Judicial Magistrate First Class, Bodhan, Nizamabad District, which is outcome of private complaint of the 2nd respondent/ Drug Inspector, Nizambad(Rural), for the alleged offence u/ sec.3(d) of the Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954 r/w Sl.No.9 of the Schedule punishable u/ sec.7 of the Act, taken cognizance and issued summons by the learned Magistrate, which is impugned herein.

The grounds urged in the petition mainly are that the very taking cognizance without assigning reasons and without considering the case even barred by limitation from the very wording of Section 468 Cr.P.C., as on the date of the complaint filed from the date of the alleged inspection on 25.05.2015 to 19.09.2016, leave about the subsequent taking of cognizance by the order of the learned Magistrate on 22.09.2016 for beyond one year of the offence punishable upto only 6 months is unsustainable.

Though there are several contentions raised so far as the aspect of limitation concerned from the maximum punishment provided, there is no dispute on the proposition with reference to the provisions on the period of limitation and punishment, and it cannot even be contended that there is no knowledge as it is from the date of inspection and finding of the offence, the knowledge is clearly be attributable for not filing the complaint before expiry of the statutory period of limitation provided for the offence u/ sec.468CrPC.

Having regard to the above, without going into other merits suffice to say the very prosecution is barred by limitation and unsustainable and continuation of the Calander Case by taking cognizance is nothing but abuse of process for the bar of claim.

Accordingly and in the result, the Criminal Petition is allowed by setting aside the proceedings in C.C.No.306 of 2016 on the file of the learned Addl.Judl.Magistrate of First Class, Bodhan, Nizamabad District. The accused are acquitted and their bail bonds shall stand cancelled.

Consequently, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Date: .09.2017
vvr

Dr. B.SIVA SANKARA RAO J,

