

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.3879 of 2011

ORDER:

This petition is filed seeking for quash of the proceedings against the petitioners, who are A1 and A2, in C.C.No.171 of 2010 on the file of Additional Judicial Magistrate of First Class, Chirala.

2. Heard the counsel for the petitioners and the learned Public Prosecutor appearing for the respondent.

3. The counsel for the petitioners submits that as per the averments of the complaint, the sample was lifted on 14.02.2005 and the same was sent to Forensic Science Laboratory (FSL) and the report was received on 22.09.2005, but the complaint as per the docket seems to have been filed on 11.06.2008, which is the date different from the date found underneath the signature of the complainant. The cognizance was taken on 13.04.2010. Now the petitioners' counsel submits that the valuable right of the petitioners to send the sample for 2<sup>nd</sup> analysis has been defeated due to the delay in the cognizance taken by the court. The manufacture of the drug is in December, 2004 and expiry date of the drug is December, 2006. Hence, by the date of taking cognizance, the drug life has expired thereby rendering the opportunity of the petitioners to send the sample for 2<sup>nd</sup> analysis to the FSL, futile.

4. The counsel relies on a ruling of this court reported in *Kimberly Clark Liver Limited v. State*<sup>1</sup>, wherein it was held that taking cognizance of the Magistrate is different from the filing of the complaint and the period of limitation applies to taking cognizance. The entire case was discussed by this court in the said ruling.

5. Hence, even the complaint is hit by law of limitation as it is taken cognizance of beyond three years. In the above circumstances, the continuance of the proceedings against the petitioners would result in abuse of process of law.

6. With the above observations, the Criminal Petition is allowed and the proceedings in C.C.No.171 of 2010 on the file of Additional Judicial Magistrate of First Class, Chirala against the petitioners are hereby quashed.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

\_\_\_\_\_  
T. RAJANI, J

December 8, 2017  
LMV

---

<sup>1</sup> 2006(2) ALT (CrI.) 261 (AP)