

SMT. JUSTICE T. RAJANI

Criminal Petition No.9179 of 2011

ORDER:

This petition is filed seeking to quash the proceedings in C.C.No.31 of 2011 on the file of the II Additional Munsif Magistrate Court, Ongole, Prakasam District, which is filed seeking for prosecution of the petitioners for the offence under Section 7(b) read with Section 19 of Seeds Act, 1966.

The case of the prosecution is that on 31.07.2007, there was inspection of the shop of the petitioners and samples were collected from the selected seeds samples of paddy and on the same day the sample was sent for chemical analysis and analyst report was received on 27.08.2007 and the same was served on 08.09.2007 and the complaint was filed on 19.02.2008 but was returned on 20.02.2008 and the said complaint was re-submitted on 21.01.2011 and the summons were issued on 21.01.2011.

The learned counsel for the petitioners submits that the petitioners were deprived of this valuable right of sending the second sample for analysis. He placed reliance on the ruling of **M/s.MATHA VENKATESWARA RAO AND ANOTHER Vs. STATE OF A.P.**¹, which is also the case of under Seeds Act, 1966 wherein the Court observed that the time taken for obtaining sanction for prosecution not to be excluded, Act does not prescribe sanction as condition precedent for prosecution after receipt of analysts' report, shelf-life of seeds expired by the date of filing of the complaint thereby defeating the valuable right of the petitioners to send the sample for second analysis. The Court also observed at para 3 of the said judgment that Section 19 of the Act prescribes fine upto Rs.500/- for the first offence and in cases where the

¹ 2002 (1) ALT (Cri.) 558 (A.P.)

same accused is found guilty of an offence under the Act for the second time, imprisonment upto six months or fine upto Rs.1000/-. In this case also there is no allegation that the petitioners committed the similar offence earlier also. The Court, in the said judgment, observed that in such circumstances maximum punishment would be only a fine upto Rs.500/- each, and so as per Section 468 Cr.P.C., the limitation is six months. In this case also the complaint is filed beyond six months and hence cannot be sustained.

The learned counsel also relied on the judgment of this Court in **MUKESH KUMAR MITTAL Vs. STATE OF TELANGANA**² wherein, the right given under Section 16(2) of the Act was dealt with and the Court held that due to inordinate delay of launching prosecution by the complainant, the petitioner has lost his valuable right of requesting the Court to send the second sample to Central Seed Laboratory for analysis under Section 16(2) of the Act.

For the above reasons, this criminal petition is allowed and the proceedings in C.C.No.31 of 2011 on the file of the II Additional Munsif Magistrate Court, Ongole, Prakasam district are quashed.

Miscellaneous petitions, if any pending in this petition, shall stand closed.

JUSTICE T. RAJANI

Date: 18.09.2018
LSK

² 2015 (2) ALD (CrL.) 274