

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No.13869 of 2011

ORDER:

1. This Criminal Petition, under Section 482 of Cr.P.C., is filed by the Petitioners/A-2 and A-3 seeking to quash the proceedings in C.C.No.108 of 2011, on the file of the Court of Judicial First Class Magistrate, Mummidivaram, East Godavari District, registered for the offences punishable under Sections 7(i), 2(ia)(f) and 16(1-A)(i) of Prevention of Food Adulteration Act, 1954.

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

3. Learned counsel for the petitioners submits that, in similar circumstances, this Court, by virtue of the order dated 07.09.2007 passed in Crl.P.No.4977 of 2007, observed as follows:

“Insofar as the offences under Sections 120B, 407, 420, 467, 468, 471, 472, 474 and 411 IPC are concerned, the Division Bench in **Kasarbada Rajeswara Rao v. State of A.P.**¹, held as follows:

“For the reasons given hereinabove, we agree with the view of the Punjab and Haryana High Court and hold that the Special Judge cannot try other offences along with offences under Essential Commodities Act which are not to be tried in a summary way. Since all the offences other than the offences under Essential Commodities Act are not to be tried in a summary way, therefore, the Special Judge has no jurisdiction to take cognizance of the offences mentioned herein. The reference is answered accordingly. We do not think it will serve any purpose if we send the matter back to the learned Single Judge and therefore, we quash the proceeding as far as they relate to offences under Sections 120B, 407, 411, 420, 467, 468, 471, 472 and 474 of the Indian Penal Code”.

¹ 2004 (1) ALT (CRL.) 443 (DB) (AP)

This Court further observed as under:

“Under Section 7(1)(a)(i) of the Essential Commodities Act, 1955, if any person contravenes any order made under Section 3, he shall be punishable in case of an order made with reference to Clause (h) or Clause(i) of sub-section (2) of that Section, with imprisonment for a term which may extend to one year. Under Section 468 Cr.P.C., no Court shall take cognizance after one year, if the offence is punishable with imprisonment for a term not exceeding one year. As seen from the charge sheet, admittedly, the offence is alleged to have taken place in the year 1995 whereas the charge sheet was filed and cognizance was taken, in the year, 2002, for the offence under Section 7(i) of the Essential Commodities Act, 1955, and hence, it is barred by limitation. So, continuation of the impugned proceedings against the petitioner is nothing but abuse of process of Court”.

4. Learned counsel for the petitioners submits that the product from which the samples were seized is Annapurna Farm Fresh Whole Wheat Atta, the shelf life of which is four (4) months, and he contends that, even if it is taken from the date of inspection, the shelf life ends by four months i.e., 09.10.2010. But, in this case, the sample was sent to F.S.L. on 09.06.2010, the report was received on 09.07.2010, the permission for laying prosecution was obtained on 07.12.2010, the complaint was filed on 31.03.2011, and cognizance was taken on 11.08.2011. Learned counsel further submits that the valuable right accrued to the petitioners under Section 13(2) of the Act of 1954 is lost, as the petitioners could not send the sample for second opinion. Hence, considering the above, this Court opines that continuation of further proceedings against the Petitioners/A-2 and A-3 would result in sheer abuse of process of law and, hence, the same cannot be sustained.

5. In view of the facts and circumstances stated above, and the law laid down by the Division Bench of this Court in **Kasarbada Rajeswara Rao Vs. State of A.P.** {2004 (1) ALT (Crl.) 443 (DB) (AP)}, the Criminal Petition is allowed and all further proceedings against the Petitioners/A-2 and A-3 in C.C.

No.108 of 2011, on the file of the Court of Judicial First class Magistrate, Mummidivaram, East Godavari District, are hereby quashed.

6. As a sequel, Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

T. RAJANI, J

05th December, 2018
KSM/DSH



SMT. JUSTICE T. RAJANI

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05th December, 2018

KSM/DSH

Retyped and sent by me on 28.12.2018

