

SMT JUSTICE T.RAJANI

CRIMINAL PETITION No.8674 OF 2013

ORDER:

1. This Criminal Petition, under Section 482 of Cr.P.C., is filed by the Petitioners/A-1 and A-2 seeking to quash the proceedings in C.C. No.302 of 2012, pending on the file of the Court of I Additional Judicial First Class Magistrate, Bhimavaram, West Godavari District (for short, 'the trial Court'), registered for the offences punishable under Section 27(b)(ii), 27(c) and 27(d) of the Drugs and Cosmetics Act, 1940 (for short, 'the Act').

2. Heard the learned counsel for the petitioners and the learned Public Prosecutor, appearing for the 1st respondent - State.

3. The facts of the case are that, on 11.05.2011, L.W.1 visited the premises of the petitioners and collected samples of the drugs, which were being sold in the said premises, and they were sent to the Government Analyst, Drugs Control Laboratory, Vijayawada, for analysis on 22.05.2011, but the report was received on 18.10.2011 and the complaint was filed on 30.05.2012.

4. Learned counsel for the petitioners submits that L.W.1 – Drugs Inspector addressed a letter to the petitioners on 22.11.2011 informing about availability of the sample of the drugs, which was deposited in the Court of II Additional Juridical First Class Magistrate, Bhimavaram, on 18.11.2011, and within 28 days thereafter the petitioners sent a reply to the Drugs Inspector expressing their willingness to send the said sample for 2nd analysis. But, thereafter, the sample was not sent for second analysis, violating the valuable right of the petitioners under Section 25(3) of the Act.

Section 25(3) of the Act reads as follows:

“(3) Any document purporting to be a report signed by a Government Analyst under this Chapter shall be evidence of the facts stated therein, and such evidence shall be conclusive unless the person from whom the sample was taken ³for the person

whose name, address and other particulars have been disclosed under Section 18A] has, within twenty-eight days of the receipt of a copy of the report, notified in writing the Inspector or the Court before which any proceedings in respect of the sample are pending that he intends to adduce evidence in controversion of the report.”

5. Learned counsel for the petitioners relied on a judgment of this Court in ***Seelam Koti Reddy Vs. State of Andhra Pradesh and another***¹, wherein it was held that non sending of second sample to the Central Drugs Laboratory, despite request of accused to the complainant – Drugs Inspector, the valuable right of the accused to prove their innocence stands vitiated and, hence, proceedings against the accused were found to be untenable and, observing as such, this Court allowed the Petition by quashing all further proceedings against the accused.

6. Hence, considering the above legal position, the facts of this case being similar to the facts of the case in ***Seelam Koti Reddy***¹, the Criminal Petition is allowed and all further proceedings against the Petitioners/A-1 and A-2, in C.C. No.302 of 2012 on the file of the Court of I Additional Judicial First Class Magistrate, Bhimavaram, West Godavari District, are hereby quashed.

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

T. RAJANI, J

Date: 30.10.2018.
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¹ 2013 (1) ALD (Crl.) 105 (AP)

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