

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.2678 of 2018

ORDER:

This Criminal Petition, under Section 482 of Code of Criminal Procedure, 1973, is filed by the petitioners/accused Nos.1 and 2 seeking to quash the proceedings against them in C.C. No.212 of 2018 on the file of the I Additional Chief Metropolitan Magistrate at Vijayawada, for the offences under Sections 8, 25 and 30 of the Legal Metrology Act, 2009.

2. Heard the learned counsel for the petitioners/accused Nos.1 and 2, learned Assistant Public Prosecutor representing the respondent-State and perused the record.

3. Learned counsel for the petitioners submits that diesel and everything is intact. There is no variation in the reserve tank of petrol and diesel. They did not tamper seals of pumps as alleged by the prosecution. The case is foisted due to business rivalry. The petitioners are in this business from decades. There are no earlier cases against them and merely on a suspicion that duplicate Integrated Circuits were inserted; without there being any cogent and convincing evidence, this case is foisted against them. There is also an Inspection Report to show everything is intact and the balance HSD in the tank is as per the records, without there being any variation. There is no short supply of HSD as alleged i.e., 350 ML for every 5 litres. There are no circumstances to continue the proceedings in impugned C.C. It is nothing but abuse of process of Court and ultimately, prayed to quash the proceedings.

4. Learned Assistant Public Prosecutor opposed the same and contended that the petitioners-accused Nos.1 and 2 have removed the original sensor and inserted duplicate I.C. There is also variation in the reserve tank. The petitioners indulged in short supply of 350 ML of HSD for every 5 litres, which is not permissible. Therefore, rightly the case is investigated and charge sheet is filed against the petitioners. There are no grounds to quash the proceedings.

5. In view of the circumstances, the point for determination is whether the proceedings in C.C.No.212 of 2018 are liable to be quashed.

6. As per the record placed before the Court, on credible information that M/s. Sri Vijayalakshmi Filling Station, IOC Dealer, Eluru Road, Gunadala, Vijayawada, was indulging in malpractice of short delivery of HSD to its customers, the District Inspector, Legal Metrology, Flying Squad, conducted inspection on 14.03.2017 at 6:00 PM in the presence of Panch Witnesses. During inspection, Sri Devoji Harinadh-accused No.2 was present. The inspecting authority collected 5 litres of calibrated standard test measure, inspected the delivery of dispensing units bearing Serial No.12MC1620V. The dispensing pump is manufactured by M/s. MIDCO Make. The Dispenser Unit has two nozzles, namely, N1 and N2 and N1 was found to be functional. With the help of 5 litre standard test measure, the deliveries through N1 nozzle were checked for the accuracy of the dispensing unit and it is found that N1 nozzle was delivering only 4 litres 650 ML for every 5 litres of delivery. There was a short delivery of 350 ML. The permissible

limit is 25 ML for every 5 litres. The inspection report, which is relied on by the counsel for the petitioners is dated 28.02.2017, which is before the date of inspection conducted by Metrology Department. It is not appropriate to take the same into consideration and hold that the nozzles and other things were intact. There is an allegation of tampering the dispensing electrical equipment and there is also an allegation of inserting duplicate I.C. by removing original sensor and the petitioners are responsible for the short supply of HSD to its customers. It is contended that for the offences alleged, the penalty prescribed is only 10%. There are specific and other allegations to proceed with the enquiry/trial of the case. It cannot be held that the petitioners are innocent and did not indulge in short supply of HSD to its customers. The truth or otherwise of the allegations will only be established after due enquiry/trial of the case. The petition is devoid of merits and it is liable to be dismissed.

7. In the result, the Criminal Petition is dismissed. Pending Miscellaneous Petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 05.03.2018

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