

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.10885 of 2011

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. seeking to quash the proceedings against the petitioners/A3 and A4 in C.C.No.123 of 2010 on the file of II Additional Munsif Magistrate Court, Ongole, Prakasam District, registered for the offences punishable under Sections 7(b) r/w Section 19 of the Seeds Act, 1966.

2. The factual matrix of the case is thus:

On 20.07.2007, the complainant inspected the shop of one of the petitioner's dealers namely M/s.Sree Annapuran Fertilisers shop at Chirala and drew sample of paddy NLR – 145, a notified variety of Paddy bearing Lot No.14704 with manufacturing date June 2007 and sent the sample to the Assistant Director of Agriculture, (S.T.L), Rajendranagar, Hyderabad. The analyst sent his report stating that the germination is only 64% against 80% of minimum, vide report dated 27.08.2007 and came to a conclusion that the sample does not conform to the prescribed standards of germination. After serving of the report received from the analyst, on the same day itself, against the petitioner, a show-cause notice was issued to the petitioner on 28.08.2007 calling for explanation as per Seeds Act. As the explanation submitted

by the petitioners is not satisfactory, the complainant filed C.C.No.123 of 2010 on 26.02.2010.

3. Heard.

4. When the matter is taken up for hearing, learned counsel for petitioners placed reliance on the order of this Court in Criminal Petition No.88 of 2015, dated 06.06.2015 and submitted that in similar circumstances, this Court allowed the criminal petition and quashed the proceedings against the petitioners therein.

5. At this juncture, it is apposite to extract here the relevant portion of the above said order:

“05. The admitted facts are that on 28-06-2011 LW.2 visited the shop of A.1 and secured the sample of cotton seed i.e., Bt-II Cotton Seed Rudra (PRCH-504) in the presence of LWs. 4 and 5 and sent one sample for analysis on the same day. The Analyst Report dated 26-07-2011 was received which shows that the seed germination of 63% does not conform to the prescribed minimum seed standard. Then, the prosecution was launched by the complainant on 07-02-2012 before Additional Judicial First Class Magistrate, Karimnagar, but cognizance was taken by the Court on 21-06-2012 and summons were served directing the accused to appear on 15-01-2015.

(a) Then a perusal of the copy of Truthful Label issued by Pravardhan Seeds Private Limited i.e., A.2 would show that B.T Hybrid Cotton variety PRCH 504 Bt-II was tested on 02-06-2011 and notified its validity upto 02-03-2012. So, as rightly pointed out by the learned counsel for petitioner, by the time he was directed to appear before

the trial Court on 15.01.2015, the shelf life of the sample seed was expired long back. In this regard, Section 16 of the Seeds Act, 1966 reads thus:

“Section 16. Report of Seed Analyst:

1) The Seed Analyst shall, as soon as may be after the receipt of the sample under Sub-section (2) of Section 15, analyse the sample at the State Seed Laboratory and deliver, in such form as may be prescribed, one copy of the report of the result of the analysis to the Seed Inspector and another copy thereof to the person from whom the sample has been taken. 2) After the institution of a prosecution under this Act, the accused vendor or the complainant may, on payment of the prescribed fee, make an application to the Court for sending any of the samples mentioned in Clause (1) or Clause (c) of Sub-section (2) of Section 15 to the Central Seed Laboratory for its report and on receipt of the application, the Court shall first ascertain that the mark and the seal or fastening as provided in Clause (b) of Sub-section (1) of Section 15 are intact and may then dispatch the sample under its own seal to the Central Seed Laboratory which shall thereupon send its report to the Court in the prescribed form within one month from the date of receipt of the sample, specifying the result of the analysis.

(3) The report sent by the Central Seed Laboratory under sub-section (2) shall supersede the report given by the Seed Analyst under Sub-section(1).

(4) Where the report sent by the Central Seed Laboratory under Subsection(2) is produced in any proceedings under Section 19, it shall not be necessary, in such proceedings to produce any sample or part thereof taken for analysis”.

Therefore, it is clear that due to inordinate delay of launching prosecution by the complainant,

the petitioner/A2 lost valuable right of requesting the Court to send the second sample to Central Seed Laboratory for analysis. Needless to emphasise, this procedural lapse casts dearer to the accused by taking away his valuable right. In the cited decision (1 supra), in similar circumstances while quashing the proceedings launched against the accused, the learned Judge of this Court observed thus: "It is clear from Section 16 of the Act that the petitioners had the right to send the sample for analysis to the Central Seed Laboratory. It is a statutory right conferred on the petitioners, which cannot be deprived. Deprivation of the said right would certainly cause prejudice since the valuable right to get the sample analysed is lost. I am of the considered view that the shelf life of the seed has expired and there is no purpose in continuing the prosecution as it amounts to abuse of process of the Court as adumbrated by the Supreme Court in the aforesaid decisions. The department itself has to be blamed for the sorry state of affairs for launching the prosecution belatedly and sleeping over the matter. When once prejudice is caused to the petitioners, they are certainly entitled to invoke the inherent powers of this Court. Hence, I disagree with the contentions advanced by the learned Public Prosecutor. Since the shelf like of the seed has expired, the question of sending the same to Central Seed Laboratory for analysis does not arise and the petitioners are certainly entitled to seek quashing of the proceedings".

6. Following the above said order and for the reasons recorded therein, this criminal petition is also allowed and all further proceedings against the petitioners in C.C.No.123 of

2010, pending on the file of learned II Additional Munsif Magistrate, Ongole, Prakasam District, are quashed.

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

T. RAJANI, J

01.11.2018
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