

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No.13090 of 2011

ORDER:

This Criminal Petition under Section 482 of Cr.P.C., is filed seeking to quash the proceedings in C.C.No.9 of 2002 on the file of the Principal District and Sessions Judge-cum-Special Judge for Offences under E.C. Act, Visakhapatnam, registered for the offences punishable under Sections 120-B, 407, 420, 467, 468, 471, 472, 474 IPC and Section 7(i) of the Essential Commodities Act, 1955, r/w Sections 26 and 28 of the A.P. Petroleum Products (Licensing and Regulation of Supplies) Order, 1980 and under Section 411 IPC, against petitioners/A4 to A6.

2. Heard learned counsel for petitioners and learned Special Public Prosecutor appearing for the respondent – State.
3. Learned counsel for the petitioners has relied upon the order dated 25.09.2018 passed in CrI.P.No.9294 of 2011, wherein this Court followed the order dated 15.07.2004 passed in CrI.P.Nos.2535 of 2002 and batch, observing as under:

“2. The question involved in all these Criminal Petitions is whether the Special Court constituted under the provisions of Section 12-A of Essential Commodities Act, 1955 can try the cases involving offences under IPC along with the provisions of Essential Commodities Act. This issue is squarely covered by the Division Bench judgment of this Court in **Kasarabada Rajeswara Rao Vs. State of A.P**¹. It has been held in the cited decision as follows:

“For the reasons given hereinabove, we agree with the view of the Punjab and Haryana High Court and

¹ 2004 (1) ALT (CRL) 443 (DB) (AP)

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 proceedings as far as they relate to offences under Sections 120-B, 407, 411, 420, 467, 468, 471, 472 and 474 of the Indian Penal Code.”

3. In all these cases the offences under IPC are sought to be tried along with Essential Commodities Act under Section 120-B, 407, 411, 420, 467, 468, 471, 472 and 474 of the Indian Penal Code. In view of the proposition of law laid down by the Division Bench of this Court, the petitioners herein cannot be tried for the offences under Sections 120-B, 407, 411, 420, 467, 468, 471, 472 and 474 of the Indian Penal Code by the Special Court constituted under the provisions of Section 12-A of Essential Commodities Act, 1955.”

4. 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:

“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”.

5. In the instant case, as seen from the charge sheet, the offence is alleged to have taken place on 28.02.1997 and a complaint was filed on the said date, whereas the charge sheet was filed and cognizance was taken in the year 2001 for the offence under Section 7(i) of the Essential Commodities Act, 1955, which is beyond one year from the date of alleged offence, and hence, it is barred by limitation.

6. In the circumstances, following the said judgment and for the reasons mentioned therein, this Criminal Petition is allowed, quashing the proceedings in C.C.No.9 of 2002 on the file of Principal District and Sessions Judge-cum-Special Judge for Offences under E.C. Act, Visakhapatnam, against the petitioners/A4 to A6. Miscellaneous applications, if any, pending in this criminal petition shall stand closed.

15th November, 2018
sj

T. RAJANI, J