

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.3446 of 2018

ORDER:

This petition is filed under Section 482 Cr.P.C by the petitioner/A1 seeking to quash the proceedings against him in C.C.No. 8 of 2012 registered against him and other accused for the offences under Section 7 (i) 2 (ia) (a) & (m) punishable under Section 16 (1) (a) (i) of Prevention of Food Adulteration Act, 1954 (for short 'the Act').

2. The allegations in the private complaint dated 2.11.2011 are that the petitioner/A1 is the proprietor of M/s Naga Vijaya Sai General Stores, Main Bazar, Pedanandipadu Village and Mandal, Guntur District; A2 is the production chemist and nominee of M/s Foods, Fats & Fertilizers/A2 and A3 is the firm. On 24.9.2010 at 12.30 PM, the second respondent/de-facto complainant, who is notified as Food Inspector for the local area of 'entire state of Andhra Pradesh' along with his staff K. Vinod Babu visited M/s Sri Naga Vijaya Sai General Stores for inspection. On enquiry, about the proprietor of A1 shop, A1 disclosed that he himself was the proprietor. Then the complainant took LW-2 to act as mediator and in their presence found 30 sealed packets of 200 ml each Vanaspathi (3F Brand) meant for sale to public for human consumption by printing on the sealed packets as "Vanaspathi, Tasty way to Good Health 3F ®, made from Vegetable Oils only way to give health. On suspicion that the Vanaspathi packets might be adulterated, he purchased six packets having paid the amount to A1 in the presence of mediators and having followed the procedure, he took up samples. Ultimately, the public analyst report which was received showed the samples do not conform to the standard of Melting point and 'Vitamin -A' test thereby adulterated.

3. On receiving analyst report, the de-facto complainant obtained written consent for launching prosecution on 9.2.2011 since A1 sold adulterated Vanaspathi (3F Brand) 200 ml in sealed packets manufactured by A2 and A3.

4. The main contention of the learned counsel for petitioner/A1 is that the prosecution is unsustainable as the petitioner and other accused were falsely implicated. It is further contended that the analyst report dated 1.11.2010 was received on 3.11.2010, whereas, the prosecution was launched one year later i.e. on 2.11.2011 with no explanation though life of the sample taken expired by June 2011. Learned counsel would submit that on the same ground petitioners/A2 & A3 filed Crl.P.No. 6455 of 2017 seeking to quash the proceedings against them and this Court in its order dated 4.10.2017 allowed the said petition holding that service of notice to the accused, after expiry of life of the food item in question, is nothing but taking away the valuable right of accused for sending the second sample to Food Laboratory for second analyst as the report will be nugatory and therefore, the prosecution is unsustainable in view of the decisions reported in **Mohd.Ali Mirza Vs. State of A.P. rep. by the Food Inspector, Division-I, Kurnool, Kurnool District¹ and in Food Inspector, Amudalavalasa Nagar Panchayat, Amudalavalasa Vs. Talluri Ramamohana Rao².**

5. Perused the order in Crl.P.No. 6455 of 2017. The petitioner/A1 being the owner of the shop, who secured the disputed commodity from A2 and A3, stand on the same footing as that of other accused. Therefore, in terms of the order dated

¹ 2016 (2) ALT CrI. 421 (AP)

² 2012 (1) ALD CrI. 958

4.10.2017 in Crl.P.No. 6455 of 2017, this petition is allowed and the proceedings in CC No. 8 o 2012 against the petitioner/A1 are quashed.

6. As a sequel there to, miscellaneous applications, pending if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 21.03.2018
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