

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No.8885 OF 2011

ORDER:

The present Criminal Petition is filed, under Section 482 of the Code of Criminal Procedure, 1973, by the petitioners - accused Nos.1 to 3 seeking to quash the proceedings against them in Calendar Case No.30 of 2008, pending on the file of the I Additional Munsif Magistrate, Tenali, Andhra Pradesh State, registered for the offences punishable under Sections 7 (i), 2 (ia) (m) and 16 (1) (a) (i) of the Prevention of Food Adulteration Act, 1954.

2. Learned counsel for the petitioners – accused Nos.1 to 3, Sri Ch. Ravindra Babu, would submit that by virtue of the order, dated 21.04.2011, in Criminal Petition No.3491 of 2008, passed by a learned Single Judge of this Court, the proceedings in the aforesaid Calendar Case may be quashed against the petitioners therein.

3. Perused the order, dated 21.04.2011, in Criminal Petition No.3491 of 2008, wherein a learned Single Judge of this Court quashed the proceedings in the very same Calendar Case against accused Nos.4 and 5, and the observations made therein are as under:

“The petitioners herein are A-4 and A-5 in the above said C.C.No.30 of 2008. The respondent No.2 herein has filed the complaint against the present petitioners and three others under Sections 7(i), 2(i)(m) and Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 (for short “the PFA Act”) and alleging that on 23.06.2007 the Food Inspector G.Subba Rao along with Pallapothu Harinarayana

and Allu Rama Rao inspected the shop M/s Uma Mahesh General Stores, Jandhyalavari Street, Tenali and found 32 packets Vijaya Double Filtered Groundnut Oil containing 500 ml each kept for sale for human consumption. The Food Inspector purchased 500 ml Vijaya Premium Double Filtered Groundnut Oil sealed packets three and paid Rs.105/-. In the presence of mediators and the vendor the Food Inspector had drawn three samples and one of the samples was sent to the Public Analyst, Food Laboratory and the remaining two sample packets were deposited with the Local (Health) Authority and obtained receipt.

The Food Inspector has received the Public Analyst report dated 30.07.2007 alleging that the sample was adulterated, as such obtained permission from the Director of I.P.M. Public Health Labs, Food (Health) Administration, Hyderabad and launched the prosecution against the petitioners herein and three others. As per the said complaint the present petitioners are the manufacturers of the said Vijaya Premium Double Filtered Groundnut Oil, which was purchased by the Food Inspector and sent for analysis.

The contention of the learned counsel for the petitioners is that the samples were drawn on 23.06.2007 and the prosecution was launched on 17.12.2007 i.e. nearly after six months by which date the samples drawn by the Food Inspector were expired as the said oil purchased by the Food Inspector is best for use within six months. It is not disputed by the petitioners that the packets of Vijaya Premium Double Filtered Groundnut Oil shows that it is best for use within six months. Admittedly, the three samples were taken on 23.06.2007 at the shop M/s Uma Mahesh General Stores, Jandhyalavari Street, Tenali and the prosecution was launched on 17.12.2007. Therefore, the prosecution has launched after six months of taking the samples.

Under Section 13(2) of the PFA Act, the accused is given an opportunity to ask the Court to send the second sample to the Central Food Laboratory for analysis. In the present case, as charge sheet was filed after six months of taking the samples, by which date the maximum period for best use was expired, as such the petitioners have lost their opportunity to send the second sample to the Central Food Laboratory for analysis. On account of the delay in launching the prosecution i.e. filing the complaint, the valuable right which is available under Section 13(2) of the PFA Act are lost. Hence, in the above circumstances the continuation of the above said proceedings would amount to abuse of process of law and no purpose would be served in continuing the proceedings. Therefore, the petitioners are entitled for quashing of the proceedings as prayed for.”

4. Hence, for the same reasons and in terms of the said order, the present Criminal Petition is also allowed, quashing the proceedings against petitioners - accused Nos.1 to 3 in Calendar Case No.30 of 2008, pending on the file of the I Additional Munsif Magistrate, Tenali, Andhra Pradesh State.

Consequently, Miscellaneous Petitions, if any, pending in the present Criminal Petition stand closed.

SMT. T. RAJANI, J

October 29, 2018
Mgr