

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION NO. 3590 OF 2011

ORDER :

This Criminal Petition is filed under section 482 of Cr.P.C., seeking quash of the Proceedings in C.C.No.193 of 2008 on the file of the Court of Additional Judicial Magistrate of First Class, Chintalapudi, West Godavari district, registered for the alleged offences under section 7 [i] 2 [i] (a) (m) and 16 [1] (a) (i) of Prevention of Food Adulteration Act, 1954 [for brevity 'the Act'].

2. The complaint was filed by the Food Inspector, West Godavari district at Eluru against the petitioners 1 to 5 who are A-1 to A-5 stating that on 17/03/2008, the complainant visited the premises of A-1 and found A-1 transacting the business by disclosing his identity, the complainant after securing the mediators inspected the premises and found 10 sealed bottles. He purchased 3 bottles of Horlicks by paying Rs.192/- and later sent the sample for chemical analysis and report dated 02/5/2008 was received on 05/5/2008. The complaint was filed on 09/09/2008.

3. Sri Ch.Dhanamjaya, the learned counsel for the petitioners submits that the Rules and the Provisions of the Food Adulteration Act, 1954 were not complied with, no sample was given to the accused for sending it to the Chemical Analyst for second opinion. Section 11 [4] and Rule-9 [b] relied upon by the learned counsel

would contend that the above provisions would mandate that the seized sample shall be produced before the Magistrate as soon as possible not later than seven days after receipt of the report of Public Analyst and as per Rule 9 [b] the Local Authority has to send the report to the person concerned within a period of ten days after the institution of the prosecution and a copy of the report of the result of analysis has to be delivered to him. In this case, the said procedure stands violated. The rulings of this Court in **M. JAIPAL REDDY AND ANOTHER V/s. STATE OF ANDHRA PRADESH** ¹., and **SRIHARIKOTA VENKATA RAMANAIAH AND ANR. V/s. STATE OF ANDHRA PRADESH** ², were relied upon by the learned counsel for the petitioners.

4. In the above rulings, this Court held that the violation of the above procedures mandated by the above provisions would entitle the petitioners for quash of the proceedings. Hence, in view of the above, the Proceedings before the Court of Additional Judicial Magistrate of First Class, Chintalapudi, West Godavari district, against the petitioners are liable to be quashed.

5. In the result, the Criminal Petition is allowed and all further proceedings in C.C.No.193 of 2008 on the file of the Court of Additional Judicial Magistrate of First Class, Chintalapudi, West Godavari district, be and are hereby quashed.

¹) **2011 (2) ALD { CrL} 868 {AP}**

²) **2011 {2} ALD { CrL} 193 {AP}**

6. As a sequel, miscellaneous petitions if any, pending in this Criminal Petition shall stand disposed of.

JUSTICE T. RAJANI



14-08-2018
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[RESULT :: ALLOWED]



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