

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.10388 of 2011

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. is filed seeking to quash the proceedings against the petitioners/A1 to A3 in C.C.No.03 of 2002 on the file of Special Judge under E.C.Act – cum – District and Sessions Judge at Visakhapatnam, registered for the offences punishable under Sections 120-B, 407, 420, 467, 468, 471, 472 and 474 of IPC and Section 7(i) of Essential Commodities Act, 1955 r/w Sections 26 and 28 of A.P.Petroleum Products (Licensing and Regulation of Supplies) Order 1980 and Section 411 of IPC.

2. Heard learned counsel for the petitioners and learned public prosecutor appearing for the respondent - State.

3. Learned counsel for the petitioners submits that in similar circumstances, this Court, by virtue of the order dated 07.09.2007 passed in CrI.P.No.4977 of 2007, observed as follows:

*“Insofar as the offences under Sections 120B, 407, 420, 467, 468, 471, 472, 474 and 411 IPC are concerned, the Division Bench in **Kasarbada Rajeswara Rao v. State of A.P.**¹, held as follows:*

“For the reasons given hereinabove, we agree with the view of the Punjab and Haryana High Court and hold that the Special Judge cannot try

¹ 2004(1) ALT (CRL.) 443(DB)(AP)

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

This Court further observed as under:

“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”.

4. In the instant case, as seen from the charge sheet, the offence is alleged to have taken place on 31.12.1996 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.

5. 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.03 of 2002 on the file of Special Judge under E.C.Act-cum-Principal District and Sessions Judge at Visakhapatnam, against the petitioners/A1 to A3.

Miscellaneous applications, if any, pending in this criminal petition shall stand closed.

01.11.2018
SS

T. RAJANI, J