

SMT JUSTICE T.RAJANI

**CRIMINAL PETITION Nos.10374, 10385, 10386, 10408, 12398, 12400,
12401, 12428, 12429, 12430, 12431, 12432, 12433 & 12435 OF 2011**

COMMON ORDER:

1. These Criminal Petitions, under Section 482 of Cr.P.C., are filed by the Petitioners/Accused seeking to quash the proceedings in C.C. Nos.12, 19, 16, 17, 26, 20, 6, 9, 13, 24, 22, 15, 18 and 23 of 2002, pending on the file of the Court 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, 474 of I.P.C. 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.

2. Heard learned counsel for the petitioners and learned Special Public Prosecutor appearing for the respondent – State.

3. Learned counsel for the petitioners straight away draws the attention of this Court to the order, dated 15.07.2004, passed by this Court, earlier, in Criminal Petition Nos.2535 of 2002 and batch; wherein it was observed as follows:

“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 hold that the Special Judge cannot try other offences along with offences under Essential Commodities Act which are not

¹ 2004 (1) ALT (CRL) 443 (DB) (AP)

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. Learned counsel for the petitioners submits that the cognizance for the offence under 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 was taken beyond one year from the date of offence.

5. The following tabular form depicts the dates of offence, lodging of F.I.R., filing of charge sheet or taking cognizance, in each case:

S.No.	Criminal Petition No.	Date of		
		Offence	F.I.R.	Filing charge sheet/taking cognizance
1.	10374 of 2011	12.02.1996 to 27.08.1996	12.07.1997	29.12.2001
2.	10385 of 2011	28.02.1995 & 04.03.1995	31.12.1997	29.12.2001
3.	10386 of 2011	04.09.1996	10.10.1997	29.12.2001

4.	10408 of 2011	26.04.1995 & 29.04.1995	21.11.1997	29.12.2001
5.	12398 of 2011	07.08.1995 to 23.09.1995	31.12.1997	08.04.2002
6.	12400 of 2011	15.03.1996 to 18.09.1996	12.07.1997	08.04.2002
7.	12401 of 2011	11.10.1995	31.12.1997	19.02.2002
8.	12428 of 2011	03.06.1996 to 23.10.1996	28.02.1997	08.03.2002
9.	12429 of 2011	29.05.1996 & 30.05.1996	12.07.1997	08.03.2002
10.	12430 of 2011	01.02.1996	10.10.1997	08.04.2002
11.	12431 of 2011	01.03.1996 & 13.03.1996	11.08.1997	08.04.2002
12.	12432 of 2011	20.04.1996 to 09.09.1996	15.03.1997	08.03.2002
13.	12433 of 2011	03.05.1995	22.11.1997	08.03.2002
14.	12435 of 2011	13.12.1995 to 07.10.1996	09.09.1997	08.04.2002

6. From the above tabular form, it is clear that the date of taking cognizance in each case is beyond one year from the date of offence.

7. Hence, in view of the above, these Criminal Petitions are allowed and all further proceedings against the Petitioners/Accused in C.C. Nos.12, 19, 16, 17, 26, 20, 6, 9, 13, 24, 22, 15, 18 and 23 of 2002, pending on the file of the Court of Special Judge under E.C. Act-cum-District and Sessions Judge at Visakhapatnam, are hereby quashed.

8. As a sequel, miscellaneous petitions, if any, pending in these Criminal Petitions shall stand closed.

T.RAJANI, J

Date: 12.10.2018.
Dsh

SMT JUSTICE T.RAJANI**348****23102018****CRIMINAL PETITION Nos.10374, 10385, 10386, 10408, 12398, 12400,
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Date. 12.10.2018

DSH