

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No.12609 OF 2011

ORDER:

The present Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973 is filed by the petitioners - accused Nos. 1 and 2 seeking to quash the proceedings in Calendar Case No.793 of 2011, pending on the file of the Judicial Magistrate of First Class, Special Mobile - cum - XI Metropolitan Magistrate, Cyberabad, Ranga Reddy District at L.B. Nagar, registered for the offences punishable under Section 7 (i), 2 (ia) (b) of the Prevention of Food Adulteration Act, 1954 (for short 'Act, 1954') read with Rule 48E of the Prevention of Food Adulteration Rules, 1955.

2. Heard the learned counsel for the petitioners and the learned Public Prosecutor appearing for the respondents.

3. The learned counsel for the petitioners submits that sample was lifted on 25.10.2010 in this case, while the Act, 1954 was repealed on 29.07.2010. He also draws the attention of this Court to the order, dated 08.10.2018, passed by this Court in Criminal Petition No.12011 of 2011, wherein this Court, in similar circumstances, observed as follows:

“3. Learned counsel for the petitioner placed the orders of this Court, dated 20.01.2017 in CrI.P.No.12990 of 2011, CrI.P.No.2510 of 2017, dated 03.11.2017, and by virtue of the said orders, proceedings were quashed considering that Prevention of Food Adulteration Act was repealed on

29.07.2010. In CrI.P.No.12990 of 2011 this Court held as follows:

“Learned counsel for the petitioner-accused No.1 brought to the notice of this Court the notification issued by the Ministry of Health and Family Welfare dated 29.07.2010 in S.O.1855 (E) by which the Food Safety and Standards Act, 2006 (34 of 2006) came into force on account of notification repealing the Prevention of Food Adulteration Act.

Admittedly, the sample was lifted on 25.02.2011 at 5.30 pm as per the allegations made in paragraph No.4 of the complaint. By that date, the Act was in not in force and thereby, the Food Inspector is incompetent to exercise his power under the Act to lift the sample. In view of repealing of the Prevention of Food Adulteration Act, lifting the sample by the Food Inspector is an illegality and therefore, the proceedings against the petitioner-accused No.1 shall not be continued, as there exist no prima facie ground to proceed against her for the alleged offences under the provisions of the repealed Act.” “

4. Hence, in view of the same, the present Criminal Petition is allowed and all the further proceedings in Calendar Case No.793 of 2011, pending on the file of the Judicial Magistrate of First Class, Special Mobile - cum - XI Metropolitan Magistrate, Cyberabad, Ranga Reddy District at L.B. Nagar, against the petitioners herein are hereby quashed.

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

SMT. T. RAJANI, J

November 14, 2018
Mgr