

SMT. JUSTICE T.RAJANI

Criminal Petition No.2480 of 2013

ORDER:

This petition is filed by the petitioners, accused, seeking to quash the proceedings in C.C. No.96 of 2013 on the file of the Court of the II Additional Judicial Magistrate of First Class, Nellore. The offence alleged is under Sections 29(1)(a) read with Section 3(k)(i) and (vii) of the Insecticides Act, 1968 (for short “the Act”).

Heard the learned counsel for the petitioners and the learned Public Prosecutor and perused the material placed on record.

The argument of the counsel for the petitioners is that the sample was drawn on 31.01.2011 but it was sent to the analysis centre on 03.02.2011. He contends that by virtue of the said delay Section 22(6) of the Act stands violated, which specifies that the Insecticide Inspector shall restore one portion of a sample so divided or one container as the case may be, to the person from whom he takes it and shall retain the remainder and dispose of the same as follows:—

(i) one portion or container, he shall forthwith send to the Insecticide Analyst test or analysis; and (ii) the second, he shall produce to the court before which proceedings, if any, are instituted in respect of the insecticide.

He also contends that the procedure is violated for yet another reason. Due to the failure of the Inspecting Officer to provide one sample to the petitioner he could not send it for second opinion. Therefore, the sanction for launching prosecution was not before June, 2012.

The learned counsel for the petitioners placed reliance on the order dated 20.04.2010 rendered by the High Court of Punjab and Haryana at Chandigarh in CrI.Misc.No.M-28415 of 2008 wherein, under the similar circumstances, it was held that the petitioners therein were entitled to

quash of the proceedings. Hence, in view of the above, this Court opines that this petition also needs to be allowed taking into consideration the above order.

Accordingly, criminal petition is allowed by quashing the proceedings in C.C. No.96 of 2013 on the file of the Court of the II Additional Judicial Magistrate of First Class, Nellore.

As a sequel, miscellaneous applications, if any pending, shall stand closed.

JUSTICE T. RAJANI

Date: 10.12.2018
LSK

