

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (APL) NO. 141 OF 2020

Navin Ramanlal Shah,
Aged 46 years, occ. Divisional
Business Manager, Rasi Seeds (P)
Ltd., C/o Bhagchand S. Bramhmarah
Plot No.28/4, Yogiraj Housing Society,
Parijat Nagar, N-4, CIDCO,
Aurangabad (M.S.)

.... **APPLICANT**

VERSUS

The State of Maharashtra,
Through Seeds Inspector &
Divisional Quality Control
Inspector, O/o Divisional Joint
Director of Agriculture, Amravati
Division, Amravati (M.S.)

.... **NON-APPLICANT**

Mr. I. M. Ghongade, Counsel for the applicant
Mr. N. R. Rode, Addl.PP for the non-applicant

CORAM : ROHIT B. DEO, J.
DATED : 15th January, 2021

ORAL JUDGMENT :

Heard Mr. I. M. Ghongade, learned Counsel for the applicant and Mr. N. R. Rode, learned Additional Public Prosecutor for non-applicant.

2. Rule.

3. With consent, the application is finally heard.

4. The applicant is seeking quashment of Complaint R.C.C. 781/2018 pending in the Court of learned Judicial Magistrate First Class, Akola which is instituted by non-applicant under Sections 6(b) and 7(c) of the Seeds Act, 1966 and Sections 2(viii) and 2(x) of the Maharashtra Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixations of Sale Price) Act, 2009 ("Act" for short).

5. The short submission of the learned Counsel for the applicant is that the summons was received by the applicant on 5-12-2019 i.e. 10 months after the expiry of the shelf life of cotton seeds, with the result that the right of the applicant to refer the sample to the Seeds Testing Laboratory, which right is available under Section 9(4) of the Act, is lost.

6. It appears from record that the sample of hybrid cotton seeds non BT RCH variety was seized on 9-5-2018. The adverse report of the Seeds Testing Laboratory, Nagpur was received on 7-6-2018, the complaint was instituted on 28-8-2018 and the summons was received

by the applicant on 5-12-2019, in the interregnum on 11-1-2019, the shelf life of the sample expired, with the result that when the summons was served on 5-12-2019 i.e. 10 months after the expiry of the shelf life of the sample, the right to refer the sample to the Seeds Testing Laboratory stood nullified. The chronology of events is not in dispute.

7. This Court has consistently followed the decision of the Hon'ble Apex Court in *Maharashtra Hybrid Seeds Co.Pvt.Ltd. and others vs. The State of Maharashtra and others, (2017) 13 SCC 367*, to hold that if the summons of the complaint is served after the expiry of the shelf life, the valuable right of the accused to seek reanalysis of the sample is lost and the continuation of the complaint is, therefore, be an empty ritualistic formality since the prosecution is bound to fail.

8. In this view of the matter, criminal application is allowed in terms of prayer clause (A), which reads as follows :

“(A) To quash and set aside the impugned Complaint R.C.C. No. 781/2018 pending in the Court of learned Judicial Magistrate First Class, Akola, Dist. Akola Dated 28-8-2018, which is filed by respondent, under Section 6(b) and 7(c) of Seeds Act, 1966 and under Section 2(viii), 2(x) of the Maharashtra Cotton Seeds (Regulation of Supply,

Distribution, Sale and Fixations of Sale Price) Act, 2009; and for that purpose issue necessary directions.”

JUDGE

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