



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

81 CRIMINAL WRIT PETITION NO. 440 OF 2023

- 1) M/s. Kaveri Seed Company Limited,
Secunderabad
- 2) Satish Prabhakar Pathak
- 3) Diwakar Govindrao Vaidya ...Petitioners

Versus

The State of Maharashtra and another ...Respondents

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Advocate for the Petitioner : Mr. Shinde Ganesh P.
APP for Respondents : Mr. Mukesh K. Goyanka

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CORAM : SHIVKUMAR DIGE, J.
DATED : 1st JULY, 2024.

PER COURT :-

1. By this writ petition, the petitioners – accused are challenging the criminal proceedings in S.C.C. No. 767 of 2017 pending in the Court of Chief Judicial Magistrate, Nanded, for the offences punishable under sections 19(a) r/w 6 and 7 of the Seeds Act, 1966 and Rules 7 and 8 of the Seeds Rules, 1968.

2. It is prosecution's case that on 25.06.2016, the Seed Inspector visited the place of accused no.3 where the seed was being stocked. During the course of inspection, the complainant seized seeds from that place. The said seeds were sent for analysis to ascertain its quality and as per the report of Laboratory, the seized

sample of seeds are not according to specification and failed in germination. After receiving the said report, offence was registered against the petitioners.

3. It is contention of the learned counsel for the petitioners that no opportunity was given to the petitioners to challenge the report of Seeds Testing Laboratory, Parbhani before the Central Seed Laboratory and the offence was registered after expiry of self life of seeds but these facts are not considered by the learned Magistrate. Hence, he requested to allow the writ petition. He is relying upon the judgments in the cases of (i) **Mahyco Vegetable Seeds Ltd., and others Vs. State of Maharashtra and others** reported in **2018 All MR (Cri) 910 (S.C.)**, (ii) **R. Shridhar Vs. State Department of Agriculture and another** reported in **2016 All MR (Cri) 4409**, (iii) **Shridhar Dattatraya Dahanagare and others Vs. The Govt. of Maharashtra** reported in **2015 All MR (Cri) 4384**, (iv) **Managing Director, Mahyco Seeds Limited and ors Vs. State of Maharashtra** reported in **2015 All MR (Cri) 2134** and (v) **Ajeet Seeds Ltd., and others Vs. The State of Maharashtra** reported in **2018 Nearlaw (Mumbai HC) (Cri) 2203**.

4. It is contention of the learned APP that the seeds seized from the shop of accused no.3 is having less germination quality than

the prescribed quality. The offence was registered as per the report of the testing laboratory. Hence he requested to dismiss the writ petition.

5. I have heard both the learned counsel.

6. It is contention of the learned counsel for the petitioners that the petitioners were not given opportunity to challenge the report of Seeds Testing Laboratory, Parbhani. Section 16(2) of the Seeds Act provides remedy to the petitioners to file an application before the trial Court for sending the said report received from the Seeds Testing Laboratory to the Central Seed Laboratory. The petitioners had opportunity to challenge the report of testing laboratory and send it for testing to the Central Seed Laboratory. In the present case, no such opportunity was given to the petitioners. Moreover, the offence was registered against the petitioners on 01.04.2017, whereas the seeds were seized on 25.06.2016 and validity of the seeds was upto 09.01.2017. It shows that after near about three months of date of expiry of self life of seeds, the offence was registered against the petitioners. As per view taken by this Court in the above said cases, the proceedings against the petitioners are liable to be quashed. The ratio laid down in the above cases are squarely applicable to the present case. Hence I pass the following order :-

O R D E R

- (i) The Writ Petition is allowed.
- (ii) The proceedings in S.C.C. No. 767 of 2017 pending in the Court of Chief Judicial Magistrate, Nanded, for the offence punishable under sections 19(a) r/w 6 and 7 of the Seeds Act, 1966 and Rules 7 and 8 of the Seeds Rules, 1968, are quashed and set aside.

(SHIVKUMAR DIGE, J.)

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