



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

915 CRIMINAL WRIT PETITION NO. 1207 OF 2023

M/S KALASH SEEDS PVT. LIMITED AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for the Petitioners : Ms. Ranjita Barhate (Deshmukh) h/f
Mr.Shinde Ganesh P.

APP for Respondent/State : Ms.V.S. Chaudhari

...
CORAM : **SHIVKUMAR DIGE, J.**

DATE : 20th June, 2024.

P.C.:

1. By this writ petition, the petitioners – accused are challenging the criminal proceedings in S.C.C. No.107 of 2022 pending in the Court of Judicial Magistrate, First Class, Jafrabad, Dist.Jalna, for the offence punishable under sections 7(b) of the Seeds Act, 1966 read with rules 7 and 10 of the Seeds Rules, 1968 read with section 19(a)(i) of the Seeds Act, 1966.

2. It is prosecution's case that on 25th August, 2021, the complainant visited the shop of petitioner no.3. During the course of inspection, the complainant seized seeds from the shop of petitioner no.3. The said seeds were sent for Seed Testing Laboratory, Parbhani 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 to Central Seed Laboratory and the offence was registered after expiry of self life of seeds but these facts are not considered by the learned Judicial Magistrate, First Class. Hence, she requested to allow the writ petition. She 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 petitioner no.3 is having less germination quality than the prescribed quality. The offence was registered as per the report of the testing laboratory. Hence she 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 Central Seed Laboratory. The petitioners had opportunity to challenge the report of testing laboratory and send it for testing to Central Seed Laboratory. In the present case, no such opportunity was given to the petitioners. Moreover, the offence was registered against the petitioners on 16.03.2022, whereas the seeds were seized on 25th August, 2021 and validity of the seeds was upto 14th December, 2021. It shows that after expiry of three months, the offence was registered against the petitioners. As per view taken by this Court in the abovesaid 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 :-

ORDER

- (i) The Writ Petition is allowed.
- (ii) The proceedings in S.C.C. No.107 of 2022 pending in the Court of Judicial Magistrate, First Class, Jafrabad, Dist.Jalna, for the offence punishable under sections 7(b) of the Seeds Act, 1966 read with rules 7 and 10 of the Seeds Rules, 1968 read with section 19(a)(i) of the Seeds Act, 1966 are quashed and set aside.

[SHIVKUMAR DIGE, J.]