

Reddy Vinod, And 2 Others vs The State Of Telangana, And Another on 31 October, 2022

Crl.Petition No.7704 of 2019

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THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.7704 OF 2019

O R D E R:

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioners-Accused Nos.1 to 3 seeking to quash the proceedings against them in C.C.No.187 of 2017 on the file of First Additional Judicial Magistrate of First Class, Karimnagar, Karimnagar District.

2. The allegation against these petitioners is that the Food Inspector raided the premises of these petitioners at Chaitanyapuri and collected a sealed packet containing Lion Dates which was sold by Accused No.5. These petitioners are admittedly retailers of the said product which was purchased from Accused No.5.

3. The said search was conducted on 22.12.2015. The sample was sent for Food Analyst, State Food Laboratory. Upon the analysis, a report was given that the samples showed presence of fungus. Having accorded sanction order by the Commissioner of Food Safety dated 24.08.2016, the present complaint was filed by the Food Inspector on 30.01.2017.

4. Heard the learned counsel for the petitioners-accused Nos.1 to 3 and the learned Additional Public Prosecutor for the respondent and perused the record.

5. The only ground on which the learned counsel for petitioners seeks quashment of the proceedings is that the complaint is barred by limitation and the Court is prohibited from taking cognizance of the offence under Section 77 of the Food Safety and Standards Act, 2006 (for short 'the Act').

6. On the other hand, the learned Additional Public Prosecutor submits that there was a sanction order which was accorded by the Commissioner of Food Safety on 24.08.2016 which is within time, for which reason the proceedings have to go on before the concerned Court.

7. Section 77 of the Act reads as follows:

77. Time limit for prosecutions.-Notwithstanding anything contained in this Act, no court shall take cognizance of an offence under this Act after the expiry of the period of one year from the date of commission of an offence:

Provided that the Commissioner of Food Safety may, for reasons to be recorded in writing, approve prosecution within an extended period of up to three years.

8. Admittedly the Court is prohibited from taking cognizance of the offence after an expiry of one year from the date of commission of offence. The raid was conducted on 22.12.2015 and the complaint was filed on 30.01.2017 which is beyond one year.

9. Proviso to Section 77 of the Act exempts any delay of filing the prosecution before the concerned Court after a period of one year, only when the Commissioner of Food Safety, for reasons to be recorded in writing, approve prosecution within an extended period of three years.

10. As seen from the sanction order dated 24.08.2016 issued by the Commissioner of Food Safety, there is no mention of any approval for launching prosecution beyond the period of one year. Even in the complaint filed by the Food Inspector, there is no mention about any approval by the Commissioner of Food Safety for launching prosecution beyond the period of one year.

11. In the said circumstances, when the complaint is filed beyond a period of one year, the Court is prohibited from taking cognizance for want of an approval by the Commissioner of Food Safety. For the said reasons, the concerned Court cannot proceed with the case against the petitioners.

12. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioners-Accused Nos.1 to 3 in C.C.No.187 of 2017 on the file of First Additional Judicial Magistrate of First Class, Karimnagar, Karimnagar District, are hereby quashed.

Miscellaneous applications pending, if any, shall stand closed.

_____ K.SURENDER, J Date: 31.10.2022 ns