

Smt .Bodduluri Rajya Lakshmi, vs Food Saftey Officer,Divisioni, on 3 March, 2021

Author: Cheekati Manavendranath Roy

Bench: Cheekati Manavendranath Roy

THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

CRIMINAL PETITION No.814 OF 2021

ORDER:

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This criminal petition under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C."), is filed seeking quash of the charge sheet in C.C.No.469 of 2017 on the file of the learned Special Judicial Magistrate of First Class for Mobile, Guntur.

2. Heard learned counsel for petitioners and the learned Additional Public Prosecutor for the State.

3. The petitioners are A-2 and A-3 in C.C.No.469 of 2017 on the file of the learned Special Judicial Magistrate of First Class for Mobile, Guntur. They are facing prosecution for the offences punishable under Sections 3(1)(zz)(vi)(xi) and 26(2)(i) of the Food Safety and Standards Act, 2006 (for short "F.S.S. Act"). The allegations against the petitioners are that the 2nd petitioner, who is A-3, owns a cold storage and the 1st petitioner is the Managing Director of the said cold storage and A-1 has stored chilly powder in the said cold storage and the said chilly powder does not confirm to the standards of F.S.S. Act. Therefore, they have committed the aforesaid offences.

4. Learned counsel for the petitioners would submit that the petitioners herein are only maintaining a cold storage and they have nothing to do with the standard of quality of the chilly powder that was stored by A-1 in their cold storage and if at all, if there is any liability regarding storage of substandard chilly powder, it is the liability of only A-1, who stored the same on hired basis in their cold storage. This Court finds considerable force in the said contention of the learned counsel for the petitioners. Admittedly, it is A-1, who has stored the said chilly powder in the cold storage being run by the petitioners, who are A-2 and A-3. Therefore, if the said chilly powder is of substandard quality and it does not confirm to the standard of F.S.S. Act, the liability is only that of A-1. The petitioners, who are only maintaining the said cold storage, cannot be made liable for the same. Therefore, no offence is made out against the petitioners for the aforesaid offences.

5. In fact, this Court also earlier in Criminal Petition No.1707 of 2019 has taken the same view and quashed the criminal proceedings against the owner of the cold storage and its Managing Director in C.C.No.327 of 2017 on the file of the learned Special Judicial Magistrate of First Class for Mobile,

Guntur. Therefore, the petitioners, who are similarly placed, are also entitled for quash of the criminal proceedings launched against them.

6. In the result, this Criminal Petition is allowed and the charge sheet against these petitioners, who are A-2 and A-3 in C.C.No.469 of 2017 on the file of the learned Special Judicial Magistrate of First Class for Mobile, Guntur, is hereby quashed.

Miscellaneous Petitions, if any pending, in this Criminal Petition, shall stand closed.

----- JUSTICE CHEEKATI
MANAVENDRANATH ROY Date : 03-03-2021 ARR THE HON'BLE SRI JUSTICE CHEEKATI
MANAVENDRANATH ROY CRIMINAL PETITION No.814 OF 2021 Date : 03-03-2021 ARR