

Mr.Jiten Singh Phukela, Secbad And ... vs The State Of Telangana, Rep Pp And Anr., on 10 November, 2022

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No. 9653 OF 2016

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- Respondent Nos.3 and 4 seeking to quash the proceedings against them in Proceedings No.H2/26/2016 on the file of the Adjudicating Officer and Joint Collector, Adilabad District.

2. Heard the learned counsel for the petitioners-Respondent Nos.3 and 4 and learned Additional Public Prosecutor for the respondent-State and perused the record.

3. The petitioners are questioning the complaint filed by the Food Inspector for violation of Section 26(2)(ii) of Food Safety and Standards Act, 2006 read with Section 51 of the said Act.

4. The case of the complainant is that the Food Inspector inspected the premises of Tirumala Bar and Restaurant, Mancherla and found a can containing 10 liters of Sundrop Heart Blended Vegetable Oil which was kept for sale for human consumption. Food Safety Officer drew the samples from the said can and sent for analysis. The analysis report mentioned that the oil is found "Substandard and Misbranded and does not conform to the standard of Acid Value and also the label contains a statement "Healthy Oil for Healthy people" which is an exaggeration".

5. In the said circumstances, having received the Analyst report, a letter was addressed to these petitioners and reply was also given by these petitioners. Having received the reply, the present complaint was filed.

6. The learned counsel appearing for the petitioners would submit that in the entire complaint there was no averment as to how these petitioners are complicit in either sale or purchase of the oil. He further submits that no documents were filed to substantiate from where the said oil was purchased, who purchased and who sold the oil. For the said reasons, the prosecution against the petitioners cannot be maintained.

7. On the other hand, learned Additional Public Prosecutor submits that the oil which was found was of sub-standard quality and admittedly the details of the manufacturer and other details were mentioned on the tin of oil which was seized, for which reason prosecution against the petitioners has to be continued.

8. In the entire complaint, there is no mention of the name of these petitioners except in the cause title. How the petitioners have violated the provision under Section 26(2)(ii) of Food Safety and

Standards Act, 2006 is not stated anywhere in the complaint. Further, under Section 66 of Food Safety Standards Act, the employees who are persons in charge of running the day to day affairs of the company can be made vicariously liable. In the present case, the company is not made as respondent and further, how these petitioners are responsible in selling the said tin that was found in the premises of the Tirumala Bar and Restaurant, Mancherial is not stated. In the absence of filing any proof that these petitioners are complicit in selling the said oil on behalf of the company, the prosecution against these petitioners cannot be maintained. Further, it is not mentioned in the complaint that the Tin found was in a sealed condition. For the said reasons also, the complaint against the petitioners cannot be continued.

9. Accordingly, Criminal Petition is allowed and the proceedings against the petitioners-respondent Nos.3 and 4 in Proceedings No.H2/26/2016 on the file of Adjudicating Officer and Joint Collector, Adilabad District, are hereby quashed.

Miscellaneous Petitions, pending if any, shall stand closed.

_____ K.SURENDER, J Date: 10.11.2022 MNV/rev