

Mr. Jithender Kumar Agarwal vs The State Of Telangana And Another on 20 June, 2024

Author: Juvvadi Sridevi

Bench: Juvvadi Sridevi

THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI

CRIMINAL PETITION Nos.6681 AND 7309 OF 2019

ORDER:

As both these petitions are filed by the accused in the same crime, they are heard together and are being disposed of by this common order.

2. Petitioners are seeking to quash the proceedings against them in Crime No.164 of 2019 on the file of Dabeerpura Police Station, Hyderabad, registered for the offences under Sections 272, 273, 406 and 420 of IPC.

3. Heard Sri B.Chandrasen Reddy, learned Senior Counsel for petitioners and the learned Additional Public Prosecutor appearing for the 1st respondent. None appeared for the 2nd respondent.

4. The Superintendent of Jails, Central Prison, Chanchalguda, Hyderabad, has lodged a complaint on 19.10.2019 against the petitioners stating that the petitioners, being the Contractors for supply of food and ration items to the Jail, have supplied adulterated Sunflower oil.

5. The main ground urged by the learned Senior Counsel for petitioners is that when there is special enactment to deal with adulteration of food items, namely, the Food Safety and Standards Act, 2006 (FSSA Act), no prosecution can be launched under any other law including IPC and 2 JS, J Crl.P.Nos.6681 & 7309 of 2019 Cr.P.C. To the said proposition, the learned Senior Counsel has relied on the judgment of Hon'ble Supreme Court in Ram Nath v. State of Uttar Pradesh and others¹, wherein, it is held that there cannot be simultaneous prosecution under IPC and FSSA. He has also relied on the judgments of Allahabad High Court in Mahesh Kumar Agarwal v. State of U.P. and another² and in M/s Pepsico India Holding (Pvt) Limited and another v. State of U.P. and others³ and also in the judgment of Patna High Court in Dharmendra Kumar @ Raja v. The State of Bihar Through The Director⁴, wherein, it is held that after coming into force of the provisions of FSSA Act by notification, dated 29.07.2010, the authorities can take action only under the FSSA Act as it postulates an overriding effect over all other food related laws. It is also held that the provisions of Sections 272 and 273 of IPC cannot be invoked in the matters relating to adulteration of food. All these judgments are applicable to the case of the petitioners herein.

6. In view of the above law on the subject, this Court is of the considered view that the petitioners cannot be prosecuted under the provisions of IPC since the FSSA Act has got overriding effect on

general laws with regard to adulteration of food.

(2024) 3 Supreme Court Cases 502 2013 SCC OnLine All 13094 2010 SCC OnLine all 1708 Case No.119 of 2016, Dated 08.04.2016 3 JS, J CrI.P.Nos.6681 & 7309 of 2019

7. Though the learned Additional Public Prosecutor has submitted that liberty may be granted for them to prosecute the petitioner/accused under the provisions of FSSA Act, it is to be seen that under Section 77 of the FSSA Act, no Court shall take cognizance of an offence under the said Act after the expiry of the period of one year from the date of commission of an offence, which can be extended up to three years for reasons to be recorded by the Commissioner of Food Safety. In the present case the date of complaint is 19.10.2019, and almost four years have lapsed from the date of complaint. Therefore, no prosecution can be initiated against the petitioner at this belated point of time in view of the bar contained under Section 77 of the Act.

8. Accordingly, both these criminal petitions are allowed and the proceedings against the petitioners in Crime No.164 of 2019 of P.S. Dabeerpura, Hyderabad, are quashed.

Pending miscellaneous applications, if any, shall stand closed.

_____ JUVVADI SRIDEVI, J Date:20.06.2024 Ksk