

Mr. D. Suryanarayana vs The State Of Telangana on 20 October, 2022

Crl.Petition No.2653 of 2020

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THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.2653 OF 2020

ORDER:

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure, 1973 (for short "Cr.P.C") by the petitioners/Accused No.1 to 3 seeking to quash the proceedings against them in C.C.No.2338 of 2019 on the file of Judicial Magistrate of First Class, Special Mobile Court - cum - VI Additional Metropolitan Magistrate - cum - VI Additional Junior Civil Judge, Cyberabad at L.B. Nagar.

2. The Food Safety Officer, Ranga Reddy District filed a complaint against these petitioners who are Accused Nos.1 to 3 and Accused No.4 for the offence punishable under Section 59(i) of Food Safety and Standards Act, 2006 (for short 'the Act').

3. The allegation against these petitioners is that they have stored Mango fruits for the purpose of selling them under unsafe and prohibited conditions. The Food Safety Officer having found the fruits suspected of artificial ripening, he drew samples and sent the samples for analysis to the Food Analyst. According to the analysis, it is found that the Mangoes were covered with calcium carbide which is used for artificial ripening.

4. Heard learned counsel for the petitioners/Accused Nos.1 to 3 and learned Public Prosecutor for the State-Respondent. Perused the material on record.

5. The only ground on which the learned counsel for the petitioners is seeking quashing of the proceedings is that the complaint is barred by limitation under Section 77 of the Act.

6. Admittedly, the alleged date of offence is on 12.04.2017 and the complaint was filed on 01.10.2018.

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 complaint was filed after a period of one year, which complaint shall not be taken cognizance, for the reason of the prohibition imposed under Section 77 of the Act. However, there is a proviso under Section 77 of the Act which enables the Commissioner of Food Safety, for the reasons to be recorded in writing, approve prosecution within an extended period of three years.

9. However as seen from the sanction order of the Commissioner of Food Safety dated 20.12.2017, there is no such approval by the Commissioner of Food Safety approving prosecution within the extended period of three years. Though the sanction was granted on 20.12.2017, it is not explained as to how the complaint came to be filed on 01.10.2018.

10. In the said facts and circumstances, when the complaint is filed after a period of one year, the Court is prohibited from taking cognizance as prescribed under Section 77 of the Act.

11. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioners/Accused Nos.1 to 3 in C.C.No.2338 of 2019 on the file of Judicial Magistrate of First Class, Special Mobile Court - cum - VI Additional Metropolitan Magistrate

- cum - VI Additional Junior Civil Judge, Cyberabad at L.B. Nagar are hereby quashed.

Miscellaneous applications pending, if any, shall stand closed.

_____ K.SURENDER, J Date: 20.10.2022 ns/rev