

Rajendra Singh Rajpurohit vs State Of Rajasthan on 6 April, 2022

Author: Dinesh Mehta

Bench: Dinesh Mehta

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR S.B. Criminal Misc(Pet.) No. 1522/2022

1. Rajendra Singh Rajpurohit S/o Shri Chotu Singh Rajpurohit, Aged About 54 Years, R/o Village Laadpura, Tehsil Degana, District Nagaur.

2. Swastik Milk Chilling Centre, Devgarh Road, Thanwala, District Nagaur Through Partner Rajendra Singh Rajpurohit S/o Shri Chotu Singh Rajpurohit, Aged About 54 Years, R/o Village Laadpura, Tehsil Degana, District Nagaur.

----Petitioners

Versus

State Of Rajasthan, Through Pp

---Respondent

For Petitioner(s) : Mr. Vishal Sharma
For Respondent(s) : Mr. Mahipal Bishnoi, P. P.

JUSTICE DINESH MEHTA

Order

06/04/2022

1. By way of the present petition, the petitioners have challenged the order dated 07.04.2015 so also the order dated 24.01.2020 passed by Additional Chief Judicial Magistrate, Merta (hereinafter referred to as the 'trial Court').

2. Facts in short are, that a complaint came to be filed against the petitioners and other co-accused - Amulya Anand et al for their prosecution under the provisions of Food Safety and Standards Act, 2006 (hereinafter referred to as the 'Act of 2006').

3. Above referred co-accused - Amulya Anand preferred a Criminal Misc. Petition No.545/2020 (Amulya Anand Vs. State) under Section 482 of the Criminal Procedure Code. A Coordinate (2 of 4) [CRLMP-1522/2022] Bench of this Court has been pleased to quash the proceedings holding them

to be barred by limitation by a detailed order dated 08.03.2022.

4. Learned counsel submitted that petitioners' case is squarely covered by the order dated 08.03.2022 and the proceedings against the petitioners are also liable to be quashed.

5. Learned Public Prosecutor submitted that petitioners have approached this Court belatedly, and the order of the trial Court has been assailed after a delay of about two years. Thus, no indulgence can be granted to the petitioners.

6. Learned Public Prosecutor was, however, unable to controvert the contention of learned counsel for the petitioner that the issue involved is squarely covered by the judgment rendered in the case of Amulya Anand (supra).

7. Heard.

8. Adverting to the preliminary objection of delay raised by learned Public Prosecutor, this Court is of the view that since the proceedings have already been stayed in the case of co-accused -

Amulya Anand in the year 2020 whereafter the petition came to be allowed on 08.03.2022. The petitioner was thus, justified in not filing the petition at that stage. The present petition cannot, therefore, be dismissed on the ground of delay and laches.

9. Upon consideration of the material available on record, this Court is of the firm view that the controversy involved in the present case is covered by the judgment of Coordinate Bench of this Court dated 08.03.2022 rendered in the case of Amulya Anand (supra) in which the Coordinate Bench has held thus :

(3 of 4) [CRLMP-1522/2022] "It is relevant to mention here that neither in the entire complaint, the sanction letter dated 30.08.2013 and the reply of the State Government is a whisper made regarding extension of time to file the complaint. As the sample was drawn on 24.10.2011, the complaint had to be filed within a period of one year as per the mandate of Section 77 of the Act of 2006. Even the first presentation of the complaint in the court of CJM Nagaur, (who did not have jurisdiction) was done on 12.09.2014 by which time also, the limitation for filing complaint had lapsed. The language of Section 77 of the Act of 2006 is mandatory and the Court is prohibited from taking cognizance if the complaint is filed after expiry of period of one year from the date of commission of offence. Even if it is assumed that the date of commission of offence would be counted from the date of receipt of the report of the Food Analyst i.e., 03.11.2011, then also, the complaint had to be filed within a period of one year 03.11.2011 or latest by one year from the date of report of Referral Food Laboratory, Ghaziabad which was issued on 10.09.2012. Even if the factual matrix regarding the date of commission of offence is stretched with reference to the report of the Referral Food Laboratory, Ghaziabad dated 10.09.2012, on which date the fact regarding the food sample being unsafe was affirmed then also, the complaint had to be filed within one year of the said report. However admittedly, first presentation of the complaint was made on 12.09.2014 which was also well beyond the mandatory period of 12 months provided under Section 77 of the Act of 2006. It is

not in dispute that no order for extension of time for filing complaint was issued by the Commissioner of Safety. Thus, it is manifest that the complaint under challenge was filed well beyond the mandatory period of limitation. Hence, the trial court could not have taken cognizance as, neither the complaint was in (4 of 4) [CRLMP-1522/2022] limitation nor did the Commissioner, Food Safety/competent authority grant any extension for filing of the complaint under proviso to Section 77 of the Act of 2006."

10. Consequently, the petition succeeds. The proceedings of Criminal Case No.145/2015 are declared time barred and the same are, hereby, quashed.

11. Stay application too stands disposed of accordingly.

(DINESH MEHTA),J 261-A.Arora/-

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