

(2011) 10 KAR CK 0060
In the Karnataka High Court
Case No : Criminal Appeal No. 2006 of 2005

Agricultural Produce Market Committee	APPELLANT
Vs	
B.K. Renukaradhya	RESPONDENT

Date of Decision : 20-10-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 258, 313, 468
Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 — Section 114, 115, 116

Citation : (2011) 10 KAR CK 0060

Hon'ble Judges : A.S. Pachhapure, J

Bench : Single Bench

Advocate : A.C. Balaraj, for the Appellant;

Final Decision : Allowed

Judgement

A.S. Pachhapure

1. The appellant has challenged the order acquitting the respondent for the charge under Sections 114 to 116 of the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 (hereinafter called as "the Act" for short) on a trial held by the JMFC, Arsikere.

2. The appellant Agricultural Produce Market Committee had allotted Hotel premises to the respondent on 1 1.1.1992 on leave and license basis for a period of three years from 16.1.1992 on payment of monthly license fees of Rs. 801-00. The respondent: was irregular in payment of the license fee and was due for an amount of Rs. 11,202/-. It is in these circumstances, it is alleged that the respondent committed an offence punishable under Sections 114 to 116 of the Act.

3. Cognizance of the complaint was taken. The respondent appeared before the Trial Court and in the trial, the appellant examined PWs. 1 to 4 and got marked the documents Exs. P. 1 to P. 27. The statement of the respondent was recorded

u/s 313 Cr. P.C. No defense evidence was led. The Trial Court after hearing the counsel for the parties and on appreciation of the material on record, acquitted the respondent for the aforesaid charges. Firstly, on the ground that the complaint was barred by time. Secondly, on the merits of the case. Aggrieved by the acquittal, the present appeal has been filed.

4. I have heard the learned counsel for both the parties.

5. During the pendency of the proceedings before the learned Magistrate, the respondent had filed an application u/s 258 Cr.P.C. to stop the proceedings on the ground that the offences are punishable with fine only and u/s 468 Cr.P.C. a complaint for the offences aforesaid has to be filed within six months and as the complaint was not within time, the respondent sought for stopping the proceedings by filing an application. The learned Magistrate vide order dated 03.11.2001 rejected the application of the respondent holding that the offences alleged are continuing offences. This fact of rejection of the application of the respondent was not noticed by the learned Magistrate and therefore, the learned Magistrate again took into consideration the question of limitation and held that the complaint is barred by time. In the last portion of the judgment, he observes " I am of the considered view that the complainant has filed case against the accused is time barred and the cognizance taken by this Court does not hold good and the entire trial was vitiated in view of Section 468 Cr.P.C. and also in view of the discussion made above.....

6. The learned counsel for the appellant has placed reliance on the unreported judgment of this Court in CrI. P.3626/2004 and connected matters, disposed of on 23-09-2005, wherein this Court taking into consideration the provisions of Section 14 of the Act held that it is the continuing offence. At the same time, the learned counsel for the respondent has placed reliance on the decision of this Court reported in ILR 2004 KAR 1112 (Smt. Devi & Others vs. Prabhakar & Another) wherein this Court has held about the procedure as to how the document is to be proved in the trial. Any how, the perusal of the order of the Court below reveals more orientation towards the question of limitation than the merits of the case. As the Trial Court had held vide order dated 3.11.2001 that the offence is a continuing offence, the question of limitation does not arise. But any how as the order dated 3.11.2001 was not taken into consideration by the learned Magistrate, I think it is just and proper to remit the matter to the Trial Court to consider the said aspect and if it is held to be not barred by time, to give an opportunity to both the parties to lead the evidence and to dispose of the case in accordance with law in that view of the matter. I proceed to pass the following:

ORDER

The appeal is allowed. The order dated 10-06-2005 acquitting the respondent for the charges under Sections 114 to 116 of the Act is hereby set aside. The matter is remitted back to the Trial Court with a direction to afford an opportunity to

both the parties and to dispose of the case in accordance with law. The Trial Court need not be influenced by any of the observations made in the body of this order.

As the matter is of the year 2001, both the parties are directed to be present before the Trial Court on 19-11-2011 without waiting for notice and the Trial Court is directed to dispose of the petition preferably within three months from the date of communication of this order.