

(2002) 02 KAR CK 0074
In the Karnataka High Court
Case No : Criminal Petition No. 1011 of 1999

Cargill Seeds India Limited, Bangalore	APPELLANT
Vs	
State	RESPONDENT

Date of Decision : 18-02-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 200, 482
Seeds Act, 1966 — Section 15, 16, 19 A

Citation : (2002) CriLJ 3806 : (2002) ILR (Kar) 3730 : (2002) 3 KarLJ 597 :
(2002) 2 KCCR 147 SN : (2002) 4 RCR(Criminal) 782

Hon'ble Judges : M.P. Chinnappa, J

Bench : Single Bench

Advocate : C.V. Nagesh, for the Appellant; B.C. Muddappa, Addl. State Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

M.P. Chinnappa, J.

1. Heard Sri C.V. Nagesh, the learned Counsel for the petitioner and the learned State Public Prosecutor for the respondent.

2. The brief facts of the case are that on 30-6-1995 the respondent herein had gone to the shop of one of the accused persons at Balki and collected the seeds stored by them for sale and thereafter, he sent the samples to the Seed Analyst and after receipt of the report, he filed a complaint u/s 200 of the Cr. P.C. before the Judicial Magistrate First Class Court, Balki which was registered in C.C. No. 520 of 1995 on his file for the offence punishable u/s 19-A of the Seeds Act (for short "the Act"). The learned Court has taken cognizance and issued summons to the accused persons. The petitioner who is accused 5 has questioned the order in this petition filed u/s 482 of the Cr. P.C.

3. The learned Counsel for the petitioner at the very outset has drawn my attention to Section 19 of the Act which reads.--

"If any person--

(a) contravenes any provision of this Act or any rule made thereunder; or

(b) prevent a Seed Inspector from taking sample under this Act; or

(c) prevents a Seed Inspector from exercising any other power conferred on him by or under this Act, he shall, on conviction, be punishable--

(i) for the first offence with fine which may extend to five hundred rupees, and

(ii) in the event of such person having been previously convicted of an offence under this section, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both".

The learned Counsel has at the very outset submitted that the complainant has not complied with Section 15 of the Act. Therefore, it is relevant to refer to Section 15 which reads:

"(1) Whenever a Seed Inspector intends to take sample of any seed of any notified kind or variety for analysis, he shall--

(a) and (b) are omitted as they are not relevant to this case.

(2) When samples of any notified kind of variety are taken under Sub-section (1), the Seed Inspector shall--

(a) deliver one sample to the person from whom it has been taken;

(b) send in the prescribed manner another sample for analysis to the Seed Analyst for the area within which such sample has been taken; and

(c) retain the remaining samples in the prescribed manner for production in case any legal proceedings are taken or for analysis by the Central Seed Laboratory under Sub-section (2) of Section 16, as the case may be".

From the complaint itself it is abundantly clear that the Inspector has not given the sample so collected by him to the accused persons. On the other hand, he has given only an acknowledgment for having collected the samples. That is not the requirement of law. On the other hand, he ought to have given the sample to the petitioner for his retention for the purpose of sending it to the Central Seed Laboratory for further analysis after the receipt of the report of the Analyst of the area. Therefore, it is clear that he has not followed the mandatory requirement of law. This is further substantiated by the judgment of this Court in the case of Harish Reddy Vs. Assistant Director of Agriculture-cum-Seed Inspector, Muddebehal, , wherein this Court after considering the requirement of Section 15 has held thus:

"Under the provisions of Section 15 of the Seeds Act when the Seed Inspector takes the samples for analysis, he has to give notice in writing to the person from whom he is taking sample and shall take three representative samples in

the prescribed manner and deliver one of the samples so taken to the custody of the person from whom the samples are taken, send one sample to the Seed Analyst and to retain one sample with him for launching the prosecution. u/s 16 of the Seeds Act, after analysis the Analyst has to submit a report and should also mark a copy of the report to the person from whom sample was taken. After launching of the prosecution, the accused vendor or the complainant if they have any objection to the report of Seed Analyst, they can apply to the Court by paying prescribed fee for sending the sample seeds for examination by the Central Seed Laboratory. The provisions of Sections 15 and 16 are mandatory in character".

Since the sample seeds are not given to the petitioner, he is not in a position to send the sample to the Central Seed Laboratory as provided u/s 16 of the Act. The right conferred on the petitioner u/s 16 is also a mandatory requirement and that opportunity is deprived of by not furnishing a portion of the sample seeds. Therefore, as rightly pointed out by the learned Counsel for the petitioner, non-compliance with the mandatory provisions of law itself is sufficient to hold that the complaint is not maintainable.

4. The learned Counsel also submitted that the petitioner is a manufacturer of seeds. From the very report of the complainant, it is seen that these seeds were manufactured by the petitioner on 6-8-1994. The learned Counsel submits that even if this date is taken as the date on which it was manufactured, the life of the seed is only for 9 months and the seeds were collected or seized by the Inspector only on 30-6-1995 and by that time, 9 months had already expired. Therefore, these seeds are dead and cannot be used. Even the Analyst Report also does not in any way help the case of the prosecution. Under the circumstances, on this ground alone the complaint is liable to be rejected.

5. The learned Counsel also brought to my notice the order sheet maintained by the Court. This is a complaint filed u/s 200 of the Cr. P.C. by the Inspector and he is represented by an Advocate. Even there also, the Inspector never appeared before the Court which compelled the Court to issue notice and also summons to him to appear, thereby it is clear that the complainant also was not diligent in prosecuting the case. The case has been pending from 1995. Therefore, I hold that the petition deserves to be allowed insofar as the petitioner is concerned.

6. For the foregoing reasons, the petition is allowed. The complaint insofar as the petitioner is concerned is quashed. No order as to costs. However, it is open to the other accused persons to urge this ground before the Court below and the Court shall consider the same in accordance with law in the event such contentions are raised by the other accused, but not being influenced by any observations made above.