
(1986) 03 AP CK 0001

In the Andhra Pradesh High Court

Case No : Criminal Miscellaneous Petition No. 3167 of 1985

Ellanda Pratap and Another

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 06-03-1986

Acts Referred:

Andhra Pradesh Petroleum Products (Licensing and Regulation of Supply) Order 1980
— Section 33

Citation : (1986) CriLJ 2108

Hon'ble Judges : Rama Rao, J

Bench : Single Bench

Advocate : T. Gopalakrishna, for the Appellant; Addl. Public Prosecutor, for the Respondent

Judgement

1. This is a petition to quash the proceedings in S.T.C. No. 11/85 on the file of Special Judge for cases under Essential Commodities Act.
2. The prosecution was launched against the petitioners under S. 33 of the A.P. Petroleum Products (Licensing and Regulation of Supply) Order 1980 on the ground that the sample H.S.D. Oil did not fulfil the specifications prescribed by the Indian Standard Institution. On the basis of the report dt. 11-2-1984 and the opinion thereon the charge-sheet was filed. Petitioner 1 is working as salesman in M/s. Ghanpur Filling Station, Ghanpur and the second petitioner is the partner of M/s. Ghanpur Filling Station and the Filling Station is dealer of the Indo-Burma Petroleum Company Limited. Formerly both the petitioners were charge-sheeted in S.T.C. 23/84 in the court of the Special Judge for trial of cases under Essential Commodities Act. During the trial the prosecution examined P.Ws. 1 to 5 and also marked Exs. P-1 to P-11. At the stage the court realised that Ex. P-9 the sanction order dt. 18-7-1984 issued by the Collector is confined to permission to launch prosecution against M/s. Ghanpur Filling Station, Ghanpur only and not to any other person and as the charge-sheet was filed against the petitioners also in respect of whom there was no sanction it was observed by the Court that the

proceedings against the accused are dropped and the complaint is rejected for want of sanction of the Collector, Warangal. It is also further clarified as follows :

"I wish to make it clear that I am not either acquitting or discharging the accused."

The petitioners herein are charge-sheeted against after obtaining the sanction and the case is taken up S.T.C. 11/85 on the file of the Special Judge for cases under Essential Commodities Act. This petition is filed to quash these proceedings.

3. The learned counsel for the petitioners contended that after substantial evidence is adduced the order stopping the proceedings is tantamount to acquittal or discharge as provided under S. 258, Cr.P.C. and, therefore, fresh charge is not maintainable. S. 258, Cr.P.C. is as follows :

"In any summons-case instituted otherwise than upon complaint, a Magistrate of the first class, or with the previous sanction of the Chief Judicial Magistrate, any other Judicial Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment and where such stoppage of proceedings is made after the evidence of the principal witnesses has been recorded, pronounce a judgment of acquittal, and in any other case, release the accused, and such release shall have the effect of discharge."

Section 258, Cr.P.C. empowers the Magistrate to stop the proceedings at any stage in a summons case without pronouncing the judgment and the consequences of such stoppage are envisaged. The stop order should be accompanied by reasons to be recorded and the follow-up event of such stop-order is either acquittal or discharge. If the proceedings are stopped after principal witnesses are examined the order of acquittal has to be passed and in any other case release the accused and this is tantamount to discharge. The contention of the learned counsel is that the proceedings have not been continued after the court was apprised of the absence of sanction order and such termination of proceedings should be considered as stopping the proceedings contemplated under S. 258, Cr.P.C. I am unable to appreciate this approach. The events and circumstances culminating in the operation of S. 258 are far removed from the situation in the instant case. The stoppage of proceedings with contemporaneous record of reasons followed up by either the order of acquittal or release are the necessary ingredients of S. 258. The prior order dropping the proceedings for want of sanction for prosecution cannot be equated in stoppage of proceedings under S. 258. At certain stage the fundamental infirmity in the proceedings was discovered and the proceedings were closed as it was revealed that continuation of further proceedings is without sanction of law. Further it was clarified by the Magistrate by way of abundant caution that it should not be considered as either acquittal or discharge. The discontinuation of proceedings for whatever reason cannot be brought within the purview of S. 258. In a situation where the proceedings are abated in view of want of jurisdiction or sanction of

prosecution and allied reasons the question of acquittal or discharge does not arise and S. 258 cannot be pressed into service. After certain progress in the trial it was discovered that there was no sanction and as such initiation of prosecution proceedings is not authorised and the complaint is rejected on that score and further proceedings are dropped and such an order or proceedings are totally alien to S. 258.

4. In the result Cr.M.P. dismissed.

5. Petition dismissed.