

(2003) 04 AP CK 0025

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 3676 of 2002

Gadamsetty Sriramulu

APPELLANT

Vs

Assistant Director of Agriculture

RESPONDENT

Date of Decision : 30-04-2003

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 468, 482

Citation : (2003) 2 ALD(Cri) 4 : (2004) 1 ALT(Cri) 63 : (2003) 2 APLJ 238 : (2003) CriLJ 3352

Hon'ble Judges : S.R.K. Prasad, J

Bench : Single Bench

Advocate : Ajay Kumar, for the Appellant; Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

S.R.K. Prasad, J.

The petitioner who is accused No. 1 invokes the inherent powers of this Court u/s 482, Cr.P.C. and seeks for quashing of the proceedings in STC 5 of 2001 on the file of Additional Munsif Magistrate Court, Kandukur, Prakasam District, on the sole ground that the complaint is barred by limitation. The charge-sheet was laid against the petitioner for the alleged substandard seeds found exhibited for sale and the Seeds Inspector visited the premises on 19-9-2000 and sent the sample for analysis which indicated that they were of substandard. The petitioner is said to be the first offender. The attention of this Court has drawn by the learned Counsel for the petitioner to Section 19(a)(i) of Seeds Act, 1966. Section 19(a)(i) reads as follows :

19. Penalty.-- If any person--

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

(b) prevents 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 the 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.

It is clear from the said section that it prescribes imposition of fine to a tune of Rs. 500/- for the first offence. It also prescribes imprisonment for the subsequent offence. It is mainly contended by the learned counsel for the petitioner that as the offence is punishable with fine only, the complaint has to be lodged within a period of six months, and in this case, as the complaint is lodged beyond the period of six months, it is barred by limitation. The learned Public Prosecutor contends that the entire punishment mentioned in the Section has to be taken in to consideration and not the punishment for the first offence, etc.

2. Adverting to the same, Section 468 of Cr.P.C. reads as follows :

468. Bar to taking cognizance after lapse of the period of limitation.-- (1) Except as otherwise provided elsewhere in this Code, no Court, shall take cognizance of an offence of the category specified in Sub-section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be--

(a) six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

[(3) For the purposes of this section, the period of limitation in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.] 3. What is stated in Section 468, Cr.P.C. is the period of limitation is six months, if the offence is punishable with fine only. It is not stated in the said section that maximum punishment prescribed has to be taken into consideration for fixing the period of limitation. In construing the statutes, the interpretation favourable to the accused has to be given, since there is a lacuna found in the section. It is nowhere specified u/s 468 of Cr.P.C. that when punishment differs for the subsequent offences, the maximum punishment has to be taken into consideration. In view of the lacuna found in the section, I am of considered view that the interpretation which is favourable to the accused has to be taken into consideration, while judging the case. It only prescribes the period of limitation of six months, whenever, the offence is

punishable with fine only. The petitioner in this case is only a first offender. Seeds Act, 1966 also prescribe imposition of fine only. He can never be convicted beyond the fine and in such case, the period of limitation must be taken as six months. No doubt, the interpretation put on by this Court leads to prescribing the limitation for the same offence differentiating the matters to first offence, second offence etc. I have already stated that lacuna is found in the section. It is not for this Court to fill up the gap. It is for the legislature to bring about changes in the legislation, and include the maximum period of punishment mentioned under the section must be considered for the purpose of determining the limitation. The first offence is only punishable with fine only. The period of limitation shall be reckoned as six months. The sample was taken on 19-9-2000. The charge-sheet was laid on 8-5-2001. It is hopelessly barred by limitation u/s 468 of Cr.P.C. In that view of the matter, the proceedings are liable to be quashed.

4. In the result, this Criminal Petition is allowed, and the proceedings in STC No. 5/2001 on the file of Addl. Munsif Magistrate Court, Kandukur, Prakasam District, are quashed, as it is barred by limitation.