
(2001) 12 AP CK 0014

In the Andhra Pradesh High Court

Case No : Criminal Petition No"s. 4876, 4878, 4881, 4882, 4883, 4884 and 5044 of 2000

G.S. Prasad and Others

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 19-12-2001

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Insecticides Act, 1968 — Section 24
Prevention of Food Adulteration Rules, 1955 — Rule 7(3)
Seeds Act, 1966 — Section 13(2), 15, 15(3), 16, 16(1)
Seeds Rules, 1968 — Rule 21, 21(3)

Citation : (2002) 1 ALD(Cri) 314 : (2002) 1 ALT(Cri) 231

Hon'ble Judges : B. Sudershan Reddy, J

Bench : Single Bench

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

Judgement

B. Sudershan Reddy, J.—This batch of Criminal Petitions may be disposed of by a common order, since the question that arises for consideration in all of them is the same.

2. These applications are filed by the petitioners u/s 482 of the Code of Criminal Procedure to quash the proceedings initiated against them for the offence punishable u/s 19(a) of the Seeds Act, 1996 on the file of the respective courts.

3. Before adverting to the question that arises for consideration, it may be necessary to briefly notice the relevant facts leading to file of CrI. Petition No.4876 of 2000. The facts in other criminal petitions need not be noticed even according to the submission made by the learned counsel for the petitioners. The facts in other criminal petitions are more or less similar.

4. The first respondent-State represented by the Assistant Director of Agriculture (Regular), Kothapet, East Godavari District filed a complaint against the

petitioners herein and two others purporting it to be u/s 7(b) read with Section 19 of the Seeds Act, 1966 (for short "the Act"). In the complaint, it is inter alia stated that the Andhra Pradesh State Seed Development Corporation, Warangal sold the paddy seed variety MTU-1001 to the Agricultural Market Committee, Kothapeta Yard, Ravulapalem as per seed purchase bill No.1418, dated 6-11-1999. It is further stated that the germination of lot No. APR 99-01-63-73684 was 91X. It is alleged that A2 stored the seed in sealed bags in the Agricultural Market Committee godowns at Market Yard, Ravulapalem for the purpose of sale to the farmers. On 15-11-1999 at about 10-00 A.M., the Seed Inspector of Ravulapalem Mandal visited Agricultural Market Committee, Kothapeta Yard, Ravulapalem for the purpose of drawing the paddy seed samples from the stock which was being stored by the Agricultural Market Committee. He secured two mediators as is required and after revealing his identity to the Secretary of the Market Committee issued a notice in Form VI to the said Secretary from whom he intended to take the samples. He found MTS-10.020 Kgs., of paddy seed MTU-1001 variety bearing a label of Andhra Pradesh State Seed Development Corporation, Warangal. The label contained the particulars of seed lot No. April 99-01-63-73684. The Corporation guaranteed 91X of germination.

5. The Seed Inspector purchased three samples of 500 grams each at Rs.8/- per Kg., from the Secretary who at the relevant time was transacting the business. The Seed Inspector took 1.500 Kgs., of seed from 5 bags by following random procedure. Later he divided the whole quantity into three equal parts and took them into clean dry containers and took steps to prevent the leakage and accordingly sealed them. Thereafter, the Seed Inspector sent two samples of paddy MTU-1001 drawn from the Agricultural Market Committee, Kothapeta Yard Ravulapalem to the Assistant Director of Agricultural Seed Testing Laboratory, Rajendra Nagar, Hyderabad on 16-11-1999 itself. The Seed Testing Laboratory received the samples on 19-11-1999 and sent certificate to the Seed Inspector acknowledging the samples. The Seed Analyst analysed the samples and sent his report dated 18-12-1999. The Seed Inspector received the analysis report on 29-12-1999. The analyst opined that the sample of paddy seed MTU-1001, lot No.99-01-63-73684 drawn from Agricultural Market Committee, Kothapeta Yard, Ravulapalem is misbranded. He found the percentage of germination at 57 as against 91 per cent minimum limits of germination guaranteed by the Corporation.

6. On the same day, the Seed Inspector visited the Agricultural Market Committee, Kothapeta Yard, Ravulapalem and served the analysis report and issued a show cause notice to the Secretary, Agricultural Market Committee, Kothapeta Yard, Ravulapalem. The records were seized on 31-12-1999 in the presence of the mediators. Thereafter, the Seed Inspector submitted a report about the seizure of records of paddy seed to the learned Judicial Magistrate of First Class, Kothapeta for safe custody of seized records and sought appropriate orders.

7. On 22-1-2000, the Joint Director of Agriculture, Kakinada instructed the Assistant Director of Agriculture (R), Kothapeta to submit prosecution proposals in prescribed proforma along with the requisite documents. The Assistant Director of Agriculture sent a show cause notice to the Special Grade Secretary, Agricultural Market Committee, Kothapeta yard, Ravulapalem on 8-4-2000 and also to the Regional Manager, A.P.S.S.D.C., Warangal for offering their explanation in selling the sub-standard seed. A copy of the analysis report was also served upon them.

8. The Commissioner and Director of Agriculture, Hyderabad issued proceedings dated 21-6-2000 according his consent for launching the prosecution. In the circumstances, the Seed Inspector filed the complaint on 10-8-2000. This is the factual scenario of the case.

9. In this batch of criminal petitions, Sri V. Ajay Kumar, learned counsel for the petitioners submits that as per Rule 21 (3) of the Seeds Rules, 1968 as amended by the Seeds (Amendment) Rules, 1973 read with Section 15(2) of the Seeds Act, the Seed Analyst is bound to deliver a copy of his report of analysis to the Seed Inspector and the person from whom the sample was lifted within thirty days from the date of his receiving the sample. The provision is mandatory. It provides an opportunity to the accused to send the sample for re-testing by the Central Seed Laboratory if they are aggrieved by the report submitted by the State Seed Laboratory. It is contended that in the instant case the report dated 18-12-1999 of the analyst, received by the complainant on 29-12-1999 and served upon the accused on 29-12-1999, is beyond the period prescribed under Rule 21 of the Seeds Rules, 1968 (for short "the Rules"). This itself would be enough to quash the prosecution, is the submission made by the learned counsel for the petitioners.

10. Before adverting to the question as to whether the prosecution is liable to be quashed on this ground, it would be necessary to notice the relevant provisions of the Seeds Act and the Seeds Rules:

Sec.15. Procedure to be followed by Seed Inspectors:- (1) Whenever a Seed Inspector intends to take sample of any seed of any notified kind or variety for analysis, he shall,-

(a) give notice in writing, then and there, of such intention to the person from whom he intends to take sample;

(b) except in special cases provided by rules made under this Act, take three representative samples in the prescribed manner and mark and seal or fasten up each sample in such manner as its nature permits.

(2) When samples of any seed of any notified kind or 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 sample 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.

(3) If the person from whom the samples have been taken refuses to accept one of the samples, the Seed Inspector shall send intimation to the Seed Analyst of such refusal and thereupon the Seed Analyst receiving the sample for analysis shall divide it into two parts and shall seal or fasten up one of those parts and shall cause it, either upon receipt of the sample or when he delivers his report, to be delivered to the Seed Inspector who shall retain it for production in case legal proceedings are taken.

(4) Where a Seed Inspector takes any action under Clause (c) of sub-section (1) of Section 14,-

(a) he shall use all despatch in ascertaining whether or not the seed contravenes any of the provisions of Section 7 and if it is ascertained that the seed does not so contravene, forthwith revoke the order passed under the said clause or, as the case may be, take such action as may be necessary for the return of the stock of the seed seized;

(b) if he seizes the stock of the seed, he shall, as soon as may be, inform a magistrate and take his orders as to the custody thereof;

(c) without prejudice to the institution of any prosecution, if the alleged offence is such that the defect may be removed by the possessor of the seed, he shall, on being satisfied that the defect has been so removed, forthwith revoke the order passed under the said clause.

(5) Where a Seed Inspector seizes any record, register, document or any other material object under Clause (d) of sub-section (1) of Section 14, he shall, as soon as may be, inform a magistrate and take his orders as to the custody thereof.

11. Sec.16. Report of Seed Analyst:-

(1) The Seed Analyst shall, as soon as may be after the receipt of the sample under sub-section (2) of Section 15, analyse the sample at the State Seed Laboratory and deliver, in such form as may be prescribed, one copy of the report of the result of the analysis to the Seed Inspector and another copy thereof to the person from whom the sample has been taken.

(2) After the institution of a prosecution under this Act, the accused vendor or the complainant may, on payment of the prescribed fee, make an application to the Court for sending any of the samples mentioned in Clause (a) or Clause (c) of sub-section (2) of Section 15 to the Central Seed Laboratory for its report and on receipt of the application, the Court shall first ascertain that the mark and the

seal or fastening as provided in Clause (b) of sub-section (1) of Section 15 are intact and may then despatch the sample under its own seal to the Central Seed Laboratory which shall thereupon send its report to the Court in the prescribed form within one month from the date of receipt of the sample, specifying the result of the analysis.

(3) The report sent by the Central Seed Laboratory under sub-section (2) shall supersede the report given by the Seed Analyst under sub-section (1).

(4) Where the report sent by the Central Seed Laboratory under sub-section (2) is produced in any proceedings u/s 19, it shall not be necessary in such proceedings to produce any sample or part thereof taken for analysis.

12. Rule 21. Duties of a Seed Analyst:-

(1) On receipt of a sample for analysis the Seed Analyst shall first ascertain that the mark and the seal or fastening as provided in Clause (b) of sub-section (1) of Section 15 are intact and shall note the condition of the seals thereon.

(2) The Seed Analyst shall analyse the samples in accordance with the procedures laid down in the Seed Testing Manual published by the Indian Council of Agricultural Research as amended from time to time.

(3) The Seed Analyst shall deliver in Form VII, a copy of the report of the result of analysis to the persons specified in sub-section (1) of Section 16, as soon as may be but not later than 30 days from the date of receipt of samples sent by the Seed Inspector under sub-section (2) of the Section 15.

(4) The Seed Analyst shall from time to time forward to the State Government the reports giving the result of analytical work done by him.

13. It is evident from a plain reading of Section 15 of the Act that whenever a Seed Inspector intends to take sample of any seed of any notified kind or variety for analysis shall issue a notice to the person from whom he intends to take sample and after taking the same shall deliver one sample to the person from whom it has been taken and send another sample in the prescribed manner for analysis to the Seed Analyst for the area within which such sample has been taken.

14. According to Section 16 of the Act, the Seed Analyst shall, as soon as after receipt of the sample sent by the Seed Inspector, analyse the sample at the State Seed Laboratory and deliver one copy of the report of the result of the analysis to the Seed Inspector and another copy thereof to the person from whom the sample has been taken.

15. Rule 21 of the Rules directs the Seed Analyst to deliver in Form VII, a copy of the report of the result of analysis to the persons specified in sub-section (1) of Section 16, as soon as may be but not later than 30 days from the date of receipt of samples sent by the Seed Inspector.

16. The learned counsel for the petitioners would lay emphasis on the language employed in sub-rule (3) of Rule 21 of the Rules and contends that the Rule is mandatory and non-compliance thereof vitiates the whole of the prosecution. The right to make an application to the court for sending the sample once again to the Central Seed Laboratory for its report, according to the learned counsel for the petitioners, is a valuable right conferred upon an accused, since the report sent by the Central Seed Laboratory supersedes the report given by the Seed Analyst. It is contended that unless the said report is prepared and delivered by the Seed Analyst within 30 days from the date of the receipt of the samples sent by the Seed Inspector, the right to make an application for sending the sample for analysis by the Central Seed Laboratory would get defeated.

17. It is brought to the notice of the court that under the Seeds Rules, 1968 every certificate granted by the Certification Agency in accordance with the provisions of the Act and the Rules is for a particular period and such period is always specified by the Certification Agency itself. According to the General Seed Certification Standards the validity period shall be nine months from the date of test at the time of initial certification. The validity period could be further extended for six months provided on retesting seed conforms to the prescribed standards in respect of physical purity, germination and insect damage for all seeds etc. It is contended that it is not as if the certified seed shall be fit for analysis at any time. In the circumstances, the period mentioned in sub-rule (3) of Rule 21 gains importance.

18. The learned counsel would rely upon the decision of the Delhi High Court in *R.S. Arora V. State*¹ in support of his submission that non-submission of the report within a maximum period of 30 days would deprive the vital and valuable right of an accused in getting the sample retested from the Central Seed Laboratory. According to the learned counsel, it is an inbuilt mandate requiring the Seed Analyst to send his report of analysis in respect of the sample lifted. The Delhi High Court held:

"It was contended by the learned counsel for the petitioner that in view of Rule 21 (3) of the Seeds Rules, 1968 as amended by the Seeds (Amendment) Rules, 1973 the Seed Analyst was under a statutory obligation to deliver in Form VII a copy of the report of the result of analysis to the persons specified in sub-section (1) of Section 16 as soon as may be, but not later than 30 days from the date of receipt of sample sent by the Seed Inspector under sub-section (2) of Section 15 of the Seeds Act. u/s 16(1) the Seed Analyst is to analyse the sample at the State Seeds Laboratory and deliver, in such form as may be prescribed, one copy of the report of the result of the analysis to the Seed Inspector and another copy thereof to the person from whom the sample has been taken. On the basis of the aforesaid provisions the learned counsel for the petitioner pointed out that the report of the Seed Analyst having been prepared after 45 days of the receipt of sample by him, was necessarily delivered to the Seed Inspector and the petitioner later than that in violation of the aforesaid mandated maximum period

of 30 days. He has further contended that in view of the aforesaid mandate of maximum period of 30 days and the prosecution having been launched against the petitioner still much later on 1-8-1984, the petitioner was deprived of his vital and valuable right of getting the sample in question re-tested from the Central Seeds Laboratory as provided in sub-section (2) of Section 16 of the Act which is reproduced below:-

"After the institution of a prosecution under this Act, the accused vendor or the complainant may, on payment of the prescribed fee, make an application to the Court for sending any of the samples mentioned in Clause (a) or clause (c) of sub-section (2) of Section 15 to the Central Seed Laboratory for its report and on receipt of the application, the Court shall first ascertain that the mark and the seal or fastening as provided in Clause (b) of sub-section (1) of Section 15 are intact and may then despatch the sample under its own seal to the Central Seed Laboratory which shall thereupon send its report to the Court in the prescribed form within one month from the date of receipt of the sample, specifying the result of the analysis."

The importance of this second test lies in the fact that the report sent by the Central Seed Laboratory supersedes the report given by the Seed Analyst as is provided in sub-section (3) of Section 16 of the Act. On account of this deprivation, it was submitted that the petitioner was entitled to the quashing of the prosecution against him. This contention of the learned counsel for the petitioner appears to be quite sound and reasonable in view of the abovementioned as in-built mandate of the maximum period of 30 days provided in the aforesaid statutory Rule 21 (3) within which the Seed Analyst must send his report of analysis in respect of the sample lifted after the receipt of the sample by him and the same has to be sent within that period to the Seed Inspector and the person from whom the same was taken, and from all this it looks quite rational to infer that the sample is likely to degenerate in regard to its germination and purity so as to defeat the aforesaid right of the second test which supersedes the analysis of the Seed Analyst and in this view of the matter the accused person can acquire a reasonable belief that such delay on the part of the Seed Analyst in sending his report can degenerate the sample so as to mar his right of second test and, thus, in such a case the making of an application to the Court for sending the sample for second test to the Central Seed Laboratory on the payment of prescribed fees for the same, cannot be held to be a sine qua non for the sending of the sample for the second test, and for reaching this inference sufficient assistance is available from a Division Bench authority of this Court reported as *Municipal Corporation of Delhi V. Narinder Kumar* (1980) 1 FAC 161 which was a case under the Food Adulteration Act, 1954, wherein Section 13(2) talks of the making of an application by the accused for the second analysis by the Director of Central Food Laboratory which is conclusive and supersedes the analysis report of the Public Analyst. On this count also the complaint and the subsequent proceedings against the petitioner are liable to be quashed and the impugned orders could be set aside."

19. The learned counsel also relied upon the decisions of this Court in *Crl. Petition No.3933 of 2000*, dated 11-10-2001 and *Crl.Petition Nos.4933 of 2001 and Batch*, dated 16-11-2001. In *Crl. Petition No.3933 of 2000* this court took the view that "the contravention of mandatory provisions of Section 16 of the Seeds Act read with Rule 21 of the Seeds Rules would vitiate the proceedings." In *Crl.P.No.4933 of 2001 and Batch*, this court observed that "30 days period is prescribed for testing the seed samples to get the accurate report with regard to the germination power and the purity of the seeds. "In the said Criminal Petitions this court followed the judgment of the Delhi High Court in *R.S. Arora (1 supra)*.

20. A Division Bench of this court in *District and Sessions Judge, Guntur V. State of A.P.2* while upholding the constitutional validity of the Fertiliser (Control) Order, 1985 including clause 19 (1) thereof observed that "the time schedule for sending the sample to the laboratory and laboratory sending the report to the Officer and the furnishing of the report to the accused have got to be scrupulously followed and any violation will defeat the prosecution."

21. The learned counsel for the petitioners, however, would place strong reliance upon the judgment of the Supreme Court in *State of Haryana V. Unique Farmaid (P) Ltd.,3* in support of his submission that the failure by the Seed Analyst to send the analysis report within 30 days would deprive the valuable statutory right available to the accused and the prosecution launched based upon such reports, which are hit by the Rule, would get vitiated. The Supreme Court while interpreting Section 24 of the Insecticides Act, 1968 which is in *pari materia* to Rule 21 (3) of the Seeds Rules, 1968 observed:

"Then in order to safeguard the right of the accused to have the sample tested from the Central Insecticides Laboratory, it is incumbent on the prosecution to file the complaint expeditiously so that the right of the accused is not lost. In the present case, by the time the respondents were asked to appear before the Court, the expiry date of the insecticide was already over and sending of the sample to the Central Insecticides Laboratory at that late stage would be of no consequence. This issue is no longer *res integra*. In *State of Punjab Vs. National Organic Chemical Industries Ltd.,* this Court in somewhat similar circumstances said that the procedure laid down u/s 24 of the Act deprived the accused to have the sample tested by the Central Insecticides Laboratory and adduce evidence of the report so given in his defence. This Court stressed the need to lodge the complaint with utmost despatch so that the accused may opt to avail the statutory defence. The Court held that the accused had been deprived of a valuable right statutorily available to him. On this view of the matter, the Court did not allow the criminal complaint to proceed against the accused. We have cases under the Drugs and Cosmetics Act, 1940 and the Prevention of Food Adulteration Act, 1954 involving the same question. In this connection reference to be made to decisions of this Court in *State of Haryana Vs. Brij Lal Mittal and Others*, under the Drugs and Cosmetics Act, 1940, *Municipal Corporation of Delhi Vs. Ghisa Ram, , Chetumal Vs. State of Madhya Pradesh and Anr, and Calcutta*

Municipal Corporation Vs. Pawan Kumar Saraf and Another, all under the Prevention of Food Adulteration Act, 1954."

22. It is required to notice that the Supreme Court took note of the facts in the said case and observed that "by the time the accused therein were asked to appear before the Court, the expiry date of the insecticide was already over and sending of the sample to the Central Insecticides Laboratory at that late stage would be of no consequence. "It is under those circumstances, the Supreme Court came to the conclusion that the accused therein were deprived of their valuable right to have the sample tested from the Central Insecticides laboratory under sub-section (4) of Section 24 of the Insecticides Act, 1968. The Supreme Court further took note of the fact that the accused in the said case notified to the Insecticide Inspector of their intention to adduce evidence to controvert the report by getting the samples tested in the Central Insecticides Laboratory. It is under those circumstances, the Supreme Court held that the valuable rights of the accused therein to get the sample tested in the Central Insecticides Laboratory were defeated.

23. It is vital to notice that according to sub-section (2) of Section 16 of the Act, the accused/vendor is conferred with a right to make an application to the court for sending any of the samples mentioned in clause (a) or clause (c) of sub-section (2) of Section 15 to the Central Seed Laboratory for its report, but only after the institution of the prosecution under the Act. It is not as if the vendor or the complainant is entitled to send the sample for further analysis by the Central Seed Laboratory immediately after the receipt of the report of the analysis of the State Seed Laboratory. In the instant case, it is not known as to whether the petitioners-accused intended to send the samples for further testing and analysis by the Central Seed Laboratory. No such applications have been filed before the learned Magistrate. It is not as if the very period of certification of the seed came to an end by efflux of time disabling them to demand for sending the sample for further analysis by the Central Seed Laboratory. There is no whisper as to whether any prejudice has been caused to their right to make an application for sending of the samples to the Central Seed Laboratory for analysis and report.

24. The question that falls for consideration is as to whether Rule 21 (3) of the Rules is mandatory in its nature? Whether the prosecution would get vitiated on account of non-compliance of the same?

25. The Supreme Court in T.V. Usman V. Food Inspector, Tellicherry Municipality⁴ while considering Rule 7 (3) of the Prevention of Food Adulteration Rules, which requires a copy of the report of the result of analysis to be provided to Local Health Authority within a period of 45 days, held the same to be directory and not mandatory. The Supreme Court held:

"In Rule 7 (3) no doubt the expression "shall" is used but it must be borne in mind that the Rule deals with stages prior to launching the prosecution and it is also clear that by the date of receipt of the report of the Public Analyst the case

is not yet instituted in the court and it is only on the basis of this report of the Public Analyst that the concerned authority has to take a decision whether to institute a prosecution or not. There is no time limit prescribed within which the prosecution has to be instituted and when there is no such limit prescribed then there is no valid reason for holding the period of 45 days as mandatory. Of course that does not mean that the Public Analyst can ignore the time limit prescribed under the Rules. He must in all cases try to comply with the time limit. But if there is some delay, in a given case, there is no reason to hold that the very report is void and on that basis to hold that even prosecution cannot be launched. May be, in a given case, if there is inordinate delay, the court may not attach any value to the report but merely because the time limit is prescribed, it cannot be said that even a slight delay would render the report void or inadmissible in law. In this context it must be noted that Rule 7 (3) is only a procedural provision meant to speed up the process of investigation on the basis of which the prosecution has to be launched. No doubt, sub-section (2) of Section 13 of the Act confers valuable right on the accused under which provision the accused can make an application to the court within a period of 10 days from the receipt of copy of the report of Public Analyst to get the samples of food analysed in the Central Food laboratory and in case the sample is found by the said Central Food Laboratory unfit for analysis due to decomposition by passage of time or for any other reason attributable to the lapses on the side of prosecution, that valuable right would stand denied. This would constitute prejudice to the accused entitling him to acquittal but mere delay as such will not per se be fatal to the prosecution case even in cases where the sample continues to remain fit for analysis in spite of the delay because the accused is in no way prejudiced on the merits of the case in respect of such delay. Therefore it must be shown that the delay has led to the denial of right conferred under Sec. 13 (2) and that depends on the facts of each case and violation of the time limit given in sub-rule (3) of Rule 7 by itself cannot be a ground for the prosecution case being thrown out."

26. The law declared by the Supreme Court is absolutely clear. Mere delay will not per se be fatal to the prosecution case unless it is shown that the delay has led to the denial of the right conferred u/s 16(2) of the Act. Whether the delay in receipt of the copy of the report of the analyst has led to the denial of right conferred under sub-section (2) of Section 16 of the Act depends upon the facts of each case. Mere violation of the time limit given in sub-rule (3) of Rule 21 of the Rules by itself cannot be a ground for the prosecution case being thrown out.

27. Neither the Delhi High Court in R.S. Arora (1 supra) nor this court in Crl. Petition No.3933 of 2000, dated 11-10-2001 and Crl. Petition Nos.4933 of 2001 and Batch, dated 16-11-2001 noticed the sub-section (2) of Section 16 of the Act.

28. In the circumstances, there is absolutely no difficulty whatsoever to hold that Rule 21 (3) of the Rules is a procedural provision meant to speed up the process of the investigation on the basis of which the prosecution has to be launched. It

is equally important to notice that neither 16 15 nor Section 16 of the Act requires the Analyst of the State Seed Laboratory to analyse the sample and deliver the same, in such form as may be prescribed, within a particular time limit as such. Section 16(1) of the Act mandates that the Seed Analyst shall, as soon as may be after the receipt of the sample under sub-section (2) of Section 15, analyse the sample at the State Seed Laboratory and deliver one copy of the report of the result of the analysis to the Seed Inspector and another copy thereof to the person from whom the sample has been taken. It is the Rule 21 (3), which prescribes the time limit for delivering a copy of the report of the result of analysis in Form VII to the Seed Inspector as well as to the person from whom the sample has been taken. Rule 21 of the Rules prescribes the duties of a Seed Analyst. It is procedural in nature. It prescribes the procedure for making the analysis. Mere violation of rule, which provides the procedure, would not render the very prosecution launched illegal. It would be interesting to notice that sub-rule (4) of Rule 21 says that the Seed Analyst shall from time to time forward to the State Government the reports giving the result of analytical work done by him. Does it mean that if the Seed Analyst fails to forward to the State Government the reports as provided for under sub-rule (4) of Rule 21 would also get the prosecution vitiated.

29. It is thus clear that unless it is shown that the sample became unfit for analysis by the Central Seed Laboratory on account of the delay and the same has caused prejudice to the accused entitling them to acquittal, mere delay on the part of the Seed Analyst in sending the report per se would not be fatal to the case of the prosecution.

30. We have already noticed that there is absolutely nothing in any one of these petitions to show that the petitioners/accused intended to send the samples for further analysis by the Central Seed Laboratory and they were prevented from doing on account of the fact that the samples became unfit for such analysis. The whole of the case of the petitioners-accused is rested upon the contention that Rule 21 is mandatory and non-compliance thereof would automatically vitiate the prosecution. The contention is devoid of any merit.

31. For the aforesaid reasons, all these criminal petitions, except Crl. Petition No.4876 of 2000, are liable to be dismissed.

32. However, Crl. Petition No.4876 of 2000 is to be allowed and the prosecution is to be quashed entirely on a different ground other than the one taken upon which a lot of concentration has been made by the learned counsel for the petitioners.

33. It is evident from the complaint itself that the Seed Inspector received the report of the analysis on 29-12-1999. The complaint is filed on 10-8-2000. It is thus clear that the complaint has been filed eight months after the knowledge of committing of the offence by the petitioners-accused. The complaint is clearly barred by limitation. In the complaint, it is, however, explained that the Seed

Inspector applied for and obtained the necessary sanction from the Commissioner and Director of Agriculture and, therefore, the complaint is within time. But the law does not require obtaining of any sanction by the Seed Inspector. Therefore, the time spent in obtaining the sanction for launching the prosecution cannot be excluded. This issue as to the application of period of limitation as provided for u/s 468 of the Code of Criminal Procedure is covered by an order passed by this court in Crl. Petition No.1020 of 2000, dated 19-11-2001.

34. Following the same, the prosecution launched against the petitioners-accused in C.C.No.119 of 2000 on the file of the learned Judicial Magistrate of First Class, Kothapet is quashed.

35. Crl. Petition No.4876 of 2000 is accordingly allowed.

36. However, for the aforementioned reasons, I do not find any merit in Crl. Petition Nos.4878, 4881, 4882, 4883, 4884 and 5044 of 2000 and the same shall accordingly stand dismissed.

37. It shall, however, be open to the petitioners to file an application for sending the sample for further analysis by the Central Seed Laboratory, if they are so advised, and in such an event, the same shall be considered by the respective learned Magistrates and appropriate orders be passed thereon in accordance with law.

38. The respective learned Magistrates shall proceed with the enquiry and trial in accordance with law. However, the personal attendance of the petitioners shall be dispensed with by the learned Magistrates.