
(2015) 06 AP CK 0020

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 88 of 2015

Mukesh Kumar Mittal

APPELLANT

Vs

The State of Telangana

RESPONDENT

Date of Decision : 03-06-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Seeds Act, 1966 — Section 15, 16, 16(2), 19, 7(b)

Citation : (2015) 2 ALD(Cri) 274 : (2015) CriLJ 3201 : (2015) 4 RCR(Criminal) 408

Hon'ble Judges : U. Durga Prasad Rao, J

Bench : Single Bench

Advocate : D. Krishna Murthy, for the Appellant

Final Decision : Dismissed

Judgement

U. Durga Prasad Rao, J.—In this petition filed under Section 482 Cr.P.C., the petitioner/A2 seeks to quash the proceedings in C.C. No. 637 of 2012 on the file of Additional Judicial First Class Magistrate, Karimnagar.

2. The factual matrix of the case is thus:

"The complainant is the Mandal Agricultural Officer-cum-Seed Inspector, Kodimial Mandal, Karimnagar District. A.1 is the Proprietor of M/s. Kaveri Fertilizer, Pesticides and Seeds, Kodimial and A.2 is the Distributor and Producer of the seeds.

(a) The case of the complainant is that on 28-06-2011 LW.2-Mandal Agricultural Officer along with mediators inspected the shop of A.1 and drawn sample of Bt-II Cotton Seed variety Rudra (PRCH-504) bearing Lot No. 051120256, whose seed Producer is A.2, under cover of panchanama in the presence of LWs. 4 and 5 by following due procedure and he sent the sample to Assistant Director of Agriculture, DNA Finger Printing Lab, Sameti Complex, Hyderabad, on 28-06-2011 for analysis. The analyst sent his Report stating that the sample

seeds are of sub-standard and its germination of 63% does not conform to the prescribed minimum seed standard. After receiving the analyst report from the Seed Testing Laboratory on 04-08-2011, LW.3 Mandal Agricultural Officer verified the stock register of A.1 in the presence of LWs. 6 and 7 and seized the record as per Form-IV under the cover of panchanama and the proposals were submitted to the Commissioner and Director of Agriculture, Hyderabad, by the Joint Director of Agriculture, Karimnagar, for prosecution and thereafter the Commissioner and Director of Agriculture, Hyderabad, instructed to launch the prosecution against Accused Nos. 1 and 2 as per the Proceedings No. SR Cell (2) 693/2011, dt. 31.12.2011. Hence, the complaint against the accused for the offences under Sections 7(b) read with Section 19 of Seed Act, 1966(for short the Act) and Sub Clause (c) of the Clause 13 of Seed (Control) Order, 1983."

3. Denying the complaint allegations, the learned counsel for petitioner/A.2 sought for quashment of the proceedings on the main plank of argument that the complaint in this case was filed on 07-02-2012 and the learned Additional Judicial First Class Magistrate, Karimnagar, took cognizance of the case on 21-06-2012 and numbered as C.C. 637 of 2012 and served summons directing the accused to appear before the Court on 20.01.2015. But, in the meanwhile, the shelf life of the cotton seed, which was only 9 months from the date of testing, was only upto 02-03-2012 and therefore as on the date of receiving summons from the Court, the petitioner/A2 has lost valuable right under Section 16(2) of the Act to request the Court for sending the second sample for analysis and hence, the continuation of the proceedings will amount to abuse of process of law. He relied upon the decision reported in Smt. Mallela Laxmi and Others Vs. State of Andhra Pradesh, (2003) CriLJ 638 and submitted that in this similar circumstances, the Hon"ble High Court was pleased to quash the proceedings under Section 482 Cr.P.C.

4. Heard.

5. The admitted facts are that on 28-06-2011 LW.2 visited the shop of A.1 and secured the sample of cotton seed i.e., Bt-II Cotton Seed Rudra (PRCH-504) in the presence of LWs. 4 and 5 and sent one sample for analysis on the same day. The Analyst Report dated 26-07-2011 was received which shows that the seed germination of 63% does not conform to the prescribed minimum seed standard. Then, the prosecution was launched by the complainant on 07-02-2012 before Additional Judicial First Class Magistrate, Karimnagar, but cognizance was taken by the Court on 21-06-2012 and summons were served directing the accused to appear on 15-01-2015.

"(a) Then a perusal of the copy of Truthful Label issued by Pravardhan Seeds Private Limited i.e., A.2 would show that B.T. Hybrid Cotton variety PRCH 504 Bt-II was tested on 02-06-2011 and notified its validity upto 02-03-2012. So, as rightly pointed out by the learned counsel for petitioner, by the time he was directed to appear before the trial Court on 15.01.2015, the shelf life of the sample seed was expired long back. In this regard, Section 16 of the Seeds Act,

1966 reads thus: Section 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 (1) 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 Subsection (1) of Section 15 are intact and may then dispatch 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 under Section 19, it shall not be necessary, in such proceedings to produce any sample or part thereof taken for analysis."

Therefore, it is clear that due to inordinate delay of launching prosecution by the complainant, the petitioner/A2 lost valuable right of requesting the Court to send the second sample to Central Seed Laboratory for analysis. Needless to emphasise, this procedural lapse casts deater to the accused by taking away his valuable right. In the cited decision (*supra*), in similar circumstances while quashing the proceedings launched against the accused, the learned Judge of this Court observed thus: It is clear from Section 16 of the Act that the petitioners had the right to send the sample for analysis to the Central Seed Laboratory. It is a statutory right conferred on the petitioners, which cannot be deprived. Deprivation of the said right would certainly cause prejudice since the valuable right to get the sample analysed is lost. I am of the considered view that the shelf life of the seed has expired and there is no purpose in continuing the prosecution as it amounts to abuse of process of the Court as adumbrated by the Supreme Court in the aforesaid decisions. The department itself has to be blamed for the sorry state of affairs for launching the prosecution belatedly and sleeping over the matter. When once prejudice is caused to the petitioners, they are certainly entitled to invoke the inherent powers of this Court. Hence, I disagree with the contentions advanced by the learned Public Prosecutor. Since the shelf like of the seed has expired, the question of sending the same to Central Seed Laboratory for analysis does not arise and the petitioners are certainly entitled to seek quashing of the proceedings.

The above decision squarely applies to the facts of the present case. Therefore, in the instant case also, the proceedings are liable to be quashed.

6. In the result, this Criminal Petition is allowed and the proceedings in C.C. No. 637 of 2012 on the file of Additional Judicial First Class Magistrate, Karimnagar, are quashed against the petitioner/Accused No. 2.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.