
(2001) 09 KAR CK 0057
In the Karnataka High Court
Case No : Criminal Petition No. 2743 of 2001

Shailaja	Vs	APPELLANT
State of Karnataka		RESPONDENT

Date of Decision : 13-09-2001

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 468, 482
Seeds Act, 1966 — Section 6

Citation : (2002) CriLJ 761 : (2002) 1 KarLJ 247 : (2002) 1 KCCR 25 SN :
(2002) 2 RCR(Criminal) 423

Hon'ble Judges : S.R. Bannurmath, J

Bench : Single Bench

Advocate : S.P. Kulkarni, for the Appellant; S.G. Rajendra Reddy, High Court
Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

The Court

1. This petition is filed u/s 482 of the Criminal Procedure Code for quashing of the proceedings in C.C. No. 525 of 1998 (P.C. No. 23 of 1998)

on the file of the Judicial Magistrate First Class, Haveri.

2. The petitioner is the seeds merchant of Haveri. On inspection of his shop on 5-6-1997 by the Seeds Inspector, samples of maize were seized

after following due procedure and the same were sent to the analyst for seed analysis at Dharwar. On receipt of the same, as the analyst reported

that the seeds were found to be sub-standard as not meeting the minimum requirement or conditions, the Seeds Inspector has proceeded to

prosecute the petitioner in the present case. The complaint was lodged on 16-5-1998. Challenging this lodging of complaint as beyond limitation,

the present petition has been filed to quash the entire proceedings.

3. As per Section 19 of the Seeds Act which is the penal provision, the maximum punishment prescribed is fine of Rs. 500/- for the first offence

and imprisonment to maximum extent of six months or with fine of Rs. 1,000/- maximum for the subsequent offences. As such, the limitation to file

complaint as per Section 468 of the Cr. P.C. would be six months, if the accused is the first offender and if he is the second offender it would be

one year. By reading Section 468 read with Section 471 of the Cr. P.C. it is apparent that if the period of limitation has expired the Magistrate

loses his power to take cognizance of the offence.

4. But the question in this case is as to from what date the period of limitation commences. The enactment of the present Act viz., the Seeds Act,

1966, was to regulate the quality of seeds sold, by providing for compulsory labelling and voluntary certification as well as to maintain the quality of

seeds. Quality seed is the fundamental basic input for good crop yields and thus the quality of seed available to the farming community assumes

great importance in an agriculture based country like ours. As per Section 6 of the Seeds Act a specific minimum limit of germination and purity is

fixed as well as the mandatory requirement of mark or label to indicate such seed conforms to the minimum limit of germination and purity. If this is

violated which is to be judged by seizing such seeds and subjecting them to Seed Analysis test. No doubt, in the present case, seeds were seized

on 5-6-1997 and immediately thereafter they were subjected to analysis. The Seed Analyst's report was received on 1-7-1997. In my view, the

period of limitation for the prosecution of the offence of this nature would not start when the samples were taken since at that time it is not certain

whether the offence alleged is committed or not. It will be known only when the Seed Analyst u/s 16(1) of the Act submits his report regarding the

quality and if such report shows that the seed is sub-standard only then such merchant or dealer of the said seeds can be prosecuted. Thus, in my

view, the date of submission of the report by the Seed Analyst as per Section 16(1) of the Act is the starting point for calculation of the limitation

as prescribed u/s 468 of the Cr. P.C. In the present case, admittedly, the report of the Analyst was submitted on 1-7-1997 and the limitation for

filing the complaint expires six months thereafter, i.e., on 1-1-1998. As such the

prosecution or lodging of the complaint should be on or before 1-

1-1998. Undisputedly, in the present case the complaint was filed on 16-5-1998 and hence clearly beyond the period of limitation prescribed. In

this view of the matter, as the complaint was filed beyond the period of limitation, the Court cannot take cognizance of the same and proceed with

the prosecution. The learned Magistrate has lost his power by virtue of Section 468 read with Section 471 of the Cr. P.C. Hence, the initiation of

the proceedings and issue of process in the present case is clearly without jurisdiction and illegal, as the same is hit by the provisions of the

limitation as per Section 468 of the Cr. P.C.

5. In the result, this petition is allowed and the proceedings before the Judicial Magistrate First Class, Haveri, in C.C. No. 525 of 1998 (PRN No.

23 of 1997) are hereby quashed as barred by limitation.