



IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA, CHIEF JUSTICE

CRIMINAL PETITION No.2378 of 2014

(Through physical mode)

Koduru Subash Chandra Bose,
S/o K. Narayana, Aged about 48 years,
Occ: Proprietor, M/s. Lakshmi
Venkateswara Oil Rotary, R/o D.No.15/388,
Subhash Road, Anantapur, Anantapur
District.

..Petitioner

Versus

The State of Andhra Pradesh
Rep., by its Food Inspector,
Municipal Corporation, Anantapur
District rep., by its Public Prosecutor,
High Court of Andhra Pradesh.

..Respondent

ORAL ORDER

Dt:16.12.2022

1. This Criminal Petition under Section 482 Cr.P.C., has been preferred seeking quashment of the proceedings in C.C.No.2 of 2013 on the file of the Additional Judicial Magistrate of First Class-Cum-Special Mobile Court, Anantapur District, in which the petitioner has been arrayed as accused No.1 on the allegation that he committed the



offence under Sections 7(i), 2(ia)(m) and 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954.

2. The facts of the case in brief are that on 15.10.2005, the respondent-Food Inspector inspected the premises of the petitioner viz., M/s. Lakshmi Venkateswara Oil Rotary and having suspected the quality of the oil, the respondent had purchased 750 grams of Palmolein oil and sent the same to the State Laboratory for analysis. The Public Analyst gave his opinion vide report dated 14.11.2005 to the effect that the said sample does not conform to the standard of Butyro-refractometer reading at 40° C and Iodine value, and hence, the sample is adulterated as per Section 2(ia)(m) of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as 'the Act, 1954'). The respondent having obtained permission from the Director and F(H)A, Hyderabad, for prosecution of the petitioner and another, filed a complaint on 15.10.2010

3. Learned counsel for the petitioner would raise a solitary ground for quashing the complaint and submit that the Public Analyst report was supplied to the petitioner along with the notice under Section 13(2) of the Act, 1954, dated 21.01.2012 and there is inordinate delay in supplying the report of the Public Analyst to the petitioner, and the said delay would infringe the right of the petitioner to get the other



part of the sample examined by the Central Food Laboratory. Learned counsel for the petitioner would refer to the judgment of the Hon'ble Supreme Court rendered in **Girishbhai Dahyabhai Shah v. C.C. Jani and another** reported in **(2009) 15 SCC 64**.

4. In the case on hand, there is no dispute that the sample was obtained on 15.10.2005 and the Public Analyst gave opinion on 14.11.2005. Thereafter, sanction for prosecution was obtained on 29.10.2007 and notice under Section 13(2) was given to the petitioner on 21.01.2012. Thus, there is delay of more than six years in supplying a copy of the report of the Public Analyst to the petitioner.

5. In **Girishbhai Dahyabhai Shah** (supra), the Hon'ble Supreme Court observed that prosecution can be launched only on receipt of the report of the Public Analyst under sub-section(1) of Section 13 of the Act to the effect that the article of food is adulterated, and a copy of the report could be supplied to the accused, and on receipt of the report, the accused could, if he so desired, make an application to the court to get the sample of the article of food kept by the Local Authority analyzed by the Central Food Laboratory. In the said case, the applicant was prevented from applying for analysis of the second sample and by the time the report was supplied, the second sample of curd had deteriorated and it was not capable of being analyzed.



6. In the case of **Girishbhai**, the Hon'ble Supreme Court referred to its earlier decision in the matter of **MCD v. Ghisa Ram** reported in **AIR 1967 SC 970**, wherein in similar circumstances, acquittal of the respondent therein on the ground that the respondent was deprived of the opportunity of exercising his right to get his sample examined by the Director of the Central Food Laboratory by the conduct of the prosecution, was justified by the Hon'ble Supreme Court.

7. In the case at hand, the above said legal position would squarely apply in favour of the petitioner because the report of the Public Analyst was supplied to the petitioner after more than six years. After such lapse of time, it is not possible for the petitioner to get the second sample analyzed by the Central Food Laboratory.

8. In view of the above and in the light of the judgments in **Girishbhai** and **Ghisa Ram** (supra), this Court has no hesitation to hold that there was delay in supplying copy of the report of the Public Analyst to the petitioner and it deprived his valuable right to get the second sample analyzed by the Central Food Laboratory, and such laches on the part of the prosecution cannot be cured at this stage. Therefore, the proceedings against the petitioner in the above C.C. are liable to be quashed.



9. Accordingly, this Criminal Petition is allowed quashing the proceedings against the petitioner in C.C.No.2 of 2013 on the file of the Additional Judicial Magistrate of First Class-cum-Special Mobile Court, Anantapur District. All the pending miscellaneous applications shall stand closed.

PRASHANT KUMAR MISHRA, CJ

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HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA, CHIEF JUSTICE

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