

Shailaja Vs. State of Karnataka

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Court : Karnataka

Decided On : Sep-13-2001

Reported in : 2002CriLJ761; 2002(1)KarLJ247

Judge : S.R. Bannurmath, J.

Acts : [Seeds Act, 1966](#) - Sections 6, 7, 15, 16, 16(1) and 19; [Code of Criminal Procedure \(CrPC\), 1973](#) - Sections 468, 471 and 482

Appeal No. : Criminal Petition No. 2743 of 2001

Appellant : Shailaja

Respondent : State of Karnataka

Advocate for Def. : S.G. Rajendra Reddy, High Court Government Pleader

Advocate for Pet/Ap. : S.P. Kulkarni, Adv.

Disposition : Petition allowed

Judgement :

ORDER

The Court

1. This petition is filed under Section 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 under Section 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 under Section 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.

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