

HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

Criminal Petition No.3117 OF 2022

Between:

Gorantla Satyanarayana. ... Petitioner

And

The State of Telangana,
Rep. through Public Prosecutor,
High Court for the State of Telangana,
Hyderabad and another ... Respondents

DATE OF JUDGMENT PRONOUNCED: 21.03.2023
Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

- 1 Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
- 2 Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No
- 3 Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

K.SURENDER, J

* THE HON'BLE SRI JUSTICE K. SURENDER

+ CRL.P. No.3117 of 2022

% Dated 21.03.2023

Gorantla Satyanarayana

... Petitioner

And

\$ The State of Telangana,
Rep. through Public Prosecutor,
High Court for the State of Telangana,
Hyderabad

... Respondents

! **Counsel for the Petitioners:** Sri A.Laxminarayana

^ **Counsel for the Respondents:** Sri S.Sudershan
Additional Public Prosecutor for R1

>HEAD NOTE:

? Cases referred

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.3117 of 2022****ORDER:**

1. This Criminal Petition is filed to quash the proceedings against the petitioner/Accused No.1 in C.C.No.415 of 2021 on the file of Judicial Magistrate of First Class at Mahabubnagar.

2. The complainant is the Mandal Agricultural Officer, who on information raided the premises of the petitioner on 17.02.2020, having information about the fertilizer being sold along with independent witnesses and other officials. The Officer found that the petitioner was making fertilizer and stored raw material of bio products. The said bio products were totally worth Rs.94.00 lakhs. The fertilizers were being made without any licence and without having any label. The material was seized on suspicion that such products were being made and sold to farmers. Having conducted panchanama, the samples

collected during the search were also sent for analysis. The said samples which were sent for analysis were found to be “not of standard quality”.

3. During the course of investigation, it was further found that the petitioner/A1 was purchasing chemicals from Basheerbagh area of Hyderabad and labeling them with various brands and selling them to farmers. The products that are being sold are in violation of the directions of this Court in W.P.No.25293 of 2014. The products found were affecting the growth of yield of crops as such, the farmers were being cheated. For the reason of cheating innocent farmers and earning money running into crores, charge sheet was filed by the police for the offences under Sections 420, 120(B), 482 R/w 34 of IPC & Sections 12, 13(1)(a)(b)(c) of Fertilizer (Control) Order 1985.

4. Learned counsel appearing for the petitioner would submit that the products are bio-friendly and protecting

the crops from various viral and bacterial infections. Since the bio products are not included in the schedule of the Insecticides Act, 1968 or any other Act, including Fertilizer Control Order, 1985, the question of taking any licence or permission from any authorities does not arise. In accordance with the order of this Court in W.P.No.25293 of 2014, the petitioner was submitting information about bio products manufactured by him vide letter dated 26.11.2017. He further submits that this Court in the above Writ Petition has given certain directions in cases of bio products. The 2nd respondent has violated the directions in the writ petition and raided the premises of the petitioner. However, after alleged seizure, show-cause notice dated 15.02.2021 was sent stating that two samples namely Shine and Pink Killer contains pesticide residue and sought explanation of this petitioner. There is no evidence of seizure of such products and for the reason of there being violation of the guidelines of this Court in

the Writ Petition, the criminal proceedings cannot be continued.

5. On the other hand, learned counsel appearing for the 2nd respondent would submit that all the guidelines issued by the Commissioner of Agriculture and also the directions of this Court in W.P.No.25293 of 2014 have not been followed and there is violation of the provision of IPC and Fertilizer (Control) Order, for which reason, proceedings have to be continued against the petitioner.

6. The record reveals that the complainant is Zonal Agricultural Officer, Waddepally Mandal. She along with Vigilance and Enforcement Officers, Agricultural Department Officers as a team conducted inspections on 17.02.2020. The team found that this petitioner and others were manufacturing and storing fertilizer, pesticides and other raw material without labels. It was also found that the said fertilizer/medicines/pesticides were being manufactured. Accordingly, the said fertilizers

and pesticides and raw material were taken into custody by preparing panchanama. Thereafter, on 20.02.2020, i.e., three days after the alleged inspection and seizure, complaint was lodged with the Inspector of Police, P.S.Shanthinagar, Jogulamba Gadwal District. The said complaint was registered by the Inspector of Police of the police station for the offences under Sections 420, 120(B), 482 of IPC & Sections 12, 13(1)(a)(b)(c) of Fertilizer (Control) Order, 1985.

7. The Inspector of Police considering the seizure and raw material and other pesticides, conducted investigation and concluded that the material seized was not of standard quality on the basis of analysis report by the FSL.

8. The provisions of Fertilizer (Control) Order, 1985 deals with the price, control, distribution of fertilizer. The violations according to the Investigating Officer are under Clauses 12, 13(1)(a)(b)(c) of Fertilizer (Control) Order,

1985. For the sake of convenience, the said clauses are extracted hereunder:

“12. Restriction on preparation of mixtures of fertilizer

No person shall carry on the business of preparing any mixture of fertilisers. or special mixture of fertilizers, Bio-fertilizers or Organic fertilisers except under and in accordance with the terms and conditions of a certificate of manufacture granted to him under clauses 15 or 16.

13. Standards of mixtures of Fertilisers

(1) Subject to the other provisions of the order-

- (a) no person shall manufacture any mixture of fertilisers whether of solid or liquid fertilizers specified in Part A of schedule I unless such mixture conforms to the standards set out in the notification to be issued by the Central Government in the Official Gazette;
- (b) no person shall manufacture any Biofertiliser unless such Biofertiliser conforms to the standards set out in the part A of Schedule – III.
- (c) no person shall manufacture any Organic fertilizer unless such organic fertilizer conforms to the standards set out in the part A of Schedule IV.”

9. According to the Fertilizer (Control) Order, 1985 under Chapter VII-Enforcement authorities, Clause 26 and 26-A, the State Government shall appoint Registering Authorities for the purpose of Order and also prescribed the limits of the local area within which each of such registering authority shall exercise jurisdiction. Under

Clause 27, the State Government or the Central Government by notification in the official Gazette appoint number of such persons as it thinks fit necessary to be Inspectors for the purpose of the Order and may define the local limits within which such Inspector shall exercise his jurisdiction. Further, Clauses 27-A and 27B prescribe the qualifications for the appointment of fertilizer Inspectors under the Order.

10. Clause 28 empowers such Inspectors for the purpose of securing compliance with the Fertilizer (Control) Order, 1985. Inspector can seek information from any manufacturer, importer, agency, wholesaler etc. He is also empowered to draw samples of any fertilizer in accordance with the procedure for drawal of samples in schedule II of the order. The bio fertilizer and organic fertilizer samples can be drawn in accordance with Schedule III and IV respectively. Under Clause 28(c) such Inspector can enter and search any premises where the

fertilizer is manufactured or sold and seize under clause (d). Also seize any books of accounts relating to such search of fertilizer under clause 28 (e).

11. The powers to conduct any such inspection, search and consequently draw samples for the purpose of examination can only be done by an Inspector who has been notified and appointed by the State or Central Government. Unless the person is notified under the Fertilizer (Control) Order, 1985, the question of conducting search or seizure in respect of fertilizer, or bio fertilizer does not arise.

12. The complainant J.Radha, is the person who conducted inspection, search and seizure of the bio material and other products in the premises of the accused along with the officers of the Agricultural Department, Vigilance Enforcement Officers. The said Vigilance Enforcement officers or the Agricultural Department Officers are not examined during the course

of investigation by the police nor cited in the list of witnesses filed along with the charge sheet. The complainant is not a notified Inspector appointed specifically by the State or Central Government in the limits where the search and seizure has taken place. In the absence of any notification appointing the complainant as an Inspector for the said area, such inspection, search and seizure is illegal. It is not the case that the other members of the team either from the Agricultural Department or the other Vigilance Enforcement Officers were in any manner notified as an Inspector under the Fertilizer (Control) Order, 1985. The search, inspection and seizure are in violation of the Fertilizer (Control) Order, 1985, as it is without authorization. For the said reason of the illegality in search, inspection and drawl of samples without authority, this Court deems it appropriate to quash the proceedings against the

petitioner as the inspection and seizure are in violation of the clauses of Fertilizer (Control) Order, 1985.

13. In the result, the proceedings against the petitioner/A1 in C.C.No.415 of 2021 on the file of Judicial Magistrate of First Class at Mahabubnagar, are hereby quashed.

14. Accordingly, the Criminal Petition is allowed. Consequently, miscellaneous applications pending, if any, shall stand disposed.

K.SURENDER, J

Date: 21.03.2023

Note: LR copy to be marked.

B/o.kvs

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.3117 of 2022

Dated: 21.03.2023

kvs

