

(R)

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated the 30th day of May, 2003

Before

THE HON'BLE Mr. JUSTICE S.R. BANNURMATH

**CRIMINAL PETITIONS Nos.2194, 2387, 2834, 3855, 3856,
4151 AND 4249 OF 2001**

and

**797, 2054, 2206, 2532, 2801, 2802, 2865, 2866, 2943, 3192,
3890, 4159, 4224 AND 4494 OF 2002**

In CrI.P.2194/2001:

Sri.S.A.Jayanarayana,
Proprietor,
M/s.S.Chelumaiah Seety and Company,
Fertilizer Seeds and P.P.Chemical Dealer,
N.H.4, Sira, Tumkur District.

PETITIONER

(By Sri.S.P.Kulkarni, Advocate)

-: VERSUS :-

State of Karnataka,
Reptd. by its Seed Inspector-
cum-Assistant Director
of Agriculture,
Sira Taluk, Sira,
Tumkur District.

RESPONDENT

(By Sri. B.A.Belliappa, High Court Government Pleader)

Criminal Petition filed under Section 482 of the Criminal Procedure Code to quash the entire proceedings in C.C.No.265 of 2001 on the file of the Civil Judge (Jr.Dn.) & JMFC, Sira.

In Crl.P.2387/2001:

1. Sri.Mahaveera C. Dhanashetty,
S/o Chandrakant,
aged about 43 years,
Fertilizer Dealer,
Mahaveera Chowk,
Indi.
2. Dr.G.M.Ravi,
Production Manager,
Hindustan Lever Limited,
Hindustan House,
1.10.8:6 Begumpet,
Hyderabad-500 016.

PETITIONERS

(By Sri.B.V.Shankara Narayana Rao, Advocate)

-: VERSUS :-

Government of Karnataka,
by its Assistant Director
of Agriculture and Seeds
Inspector, Indi.

RESPONDENT

(By Sri.B.A.Belliappa, High Court Government Pleader)

Criminal petition filed under Section 482 of the Criminal Procedure Code to quash all the proceedings in C.C.No.878/98 on the file of the JMFC, Indi.

In Cri.P.2834/2001:

1. Markfield Hybrid Seeds Pvt.Ltd.,
No.6-B, Pawar Chamber,
Bus Stand Road,
Jalna-431 203,
represented by its Director,
Sri.Dharmesh R.Ujawane,
Age: major.
2. Nirmal Agro Agencies,
Narasarajpet, N.R.Road,
Davanagere-577 001,
Represented by its Proprietor
Sri.A.Neelakantappa,
Age: major.
3. Sri.T.N.Naveen,
Proprietor,
Age: major,
M/s. T.S.R. and Co.,
Bus Stand, Hiriur.

PETITIONERS

(By Sri. R.Gopal, Advocate)

-: VERSUS :-

State of Karnataka
by Seed Inspector and
Assistant Agricultural Officer,
Hiriur, Chitradurga Dist.

RESPONDENT

(By Sri. B.A.Belliappa, High Court Government Pleader)

Criminal petition filed under Section 482 of the Criminal
Procedure Code to quash the entire proceedings in

C.C.No.265/2001 on the file of the Civil Judge (Jr.Dn.) & JMFC, Hiriyr.

In CrI.P.3855/2001:

1. Sri.Chennappa Shivappa Gobboora
Proprietor
Sri. Veerabhadreshwara Fertilizers,
Basavana Bagewadi,
Bijapur District.
2. Fertilizers and Agricultural Traders
Station Road,
Bagalakota.
3. Sri.Venugopala Rao,
Area Business Manager,
Hindustan Lever Limited
Agriculture Division
Begum Pet, Hyderabad.

PETITIONERS

(By Sri. B.V.Shankara Narayana Rao, Advocate)

-: VERSUS :-

The State of Karnataka,
represented by Assistant
Agriculture Officer and
Seeds Inspector,
Basavana Bagevadi,
Bijapur District.

RESPONDENT

(By Sri. B.A.Belliappa, High Court Government Pleader)

Criminal petition filed under Section 482 of the Criminal Procedure Code to quash the entire proceedings in C.C.No.557/2001 on the file of the JMFC, Basavana Bagewadi.

In CrI.P.3856/2001:

1. G.Dayananda
Proprietor
Krishna Krishi Kendra
Dealer of Manure, Seeds
and Pesticides,
Holenarasipura.
2. T.R.Satyanarayana Gupta,
T.R.S.Traders,
Dealer of Manure, Seeds
and Pesticides,
Hassan.
3. T.Sadashiva,
Sales Officer,
Hindustan Lever Limited,
C/o Sri. Enterprises-1,
Poojari Building,
Nilajin Road, Hubli.

PETITIONERS

(By Sri. B.V.Shankara Narayana Rao, Advocate)

-: VERSUS :-

The State of Karnataka,
represented by Mr.M.S.Janardhana,
Seeds Inspector and Agriculture
Officer (Incharge),Holenarasipura.

RESPONDENT

(By Sri.B.A.Belliappa, High Court Government Pleader)

Criminal petition filed under Section 482 of the Criminal Procedure Code to quash the entire proceedings in C.C.No.344/2001 on the file JMFC, Holenarasipura.

In Cri.P.4151/2001:

1. Sri.M.B.Chandrappa,
S/o Basavanagowda,
Seeds Seller,
Sridevi Traders,
Hollani, Davanagere Dist.
2. Sri.Sadashiva,
Manager & Seeds Manufacturer,
Distributor of Seeds and
Field Officer,
Hindustan Lever Ltd.,
Kshirasagara Agro Industries,
7:64:1, Survey No.485,
Anantapura, Armuru Post,
Hindustan House,
Begumpet, Hyderabad.

PETITIONERS

(By Sri.B.V.Shankara Narayana Rao, Advocate)

-: VERSUS :-

The State of Karnataka
represented by Sri.V.Ramaiah,
Seeds Inspector and Agriculture Officer,
Office of the Assistant
Director of Agriculture,
Honnali Taluk,
Davanagere District.

RESPONDENT

(By Sri.B.A.Belliappa, High Court Government Pleader)

Criminal petition filed under Section 482 of the Criminal Procedure Code to quash the entire proceedings in C.C.No.247/2001 on the file of the JMFC, Honnali.

In CrI.P.4249/2001:

1. B.P.Thipperudrappa,
S/o B.Pampanna,
Sri.Vinayaka Traders,
Theru Beedi Rampura,
Molakalmuru Taluk.
2. P.M.Mruthyunjayappa,
Distributor,
Kamadhenu Agro
Seeds Corporation,
Siddeswara Complex,
Medahalli Road,
Chitradurga.
3. K.V.S.Ramanamurthy,
Producer,
Hindustan Lever Ltd.,
Agri Business,
Hindustan House,
1-8-8/6, Begumpet,
Hyderabad.

PETITIONERS

(By Sri.B.V.Shankara Narayana Rao, Advocate)

-: VERSUS :-

The State of Karnataka
represented by Sri.M.C.Vinayakumar,
Agriculture Officer (S.M.S.),
working in the Office of the

Taluka Assistant Director
of Agriculture,
Molakalmuru.

RESPONDENT

(By Sri.B.A.Belliappa, High Court Government Pleader)

Criminal petition filed under Section 482 of the Criminal Procedure Code to quash the entire proceedings in C.C.No.260/2001 on the file of the JMFC, Molakalmuru, for the offence punishable under Section 19(1) of the Seeds Act.

In CrI.P.797/2002:

M/s. L.P. Kuri,
Jai Hanuman Fertilizers,
Muddebihal,
Rep. by Sri.L.P.Kuri,
Age: major,
Occ. Business,
R/o Muddebihal,
Dist: Bijapur.

PETITIONER

(By Sri. C.H.Jadhav, Advocate)

-: VERSUS :-

State of Karnataka,
Assistant Director
of Agriculture/Seeds Inspector,
Muddebihal, Dist. Bijapur,
Rep. by State Public
Prosecutor, High Court Building,
Bangalore-560 001.

RESPONDENT

(By Sri.B.A.Belliappa, High Court Government Pleader)

Criminal petition filed under Section 482 of the Criminal Procedure Code to quash the proceedings in C.C.No.854/1999 on the file of the JMFC, Muddebihal.

In CrI.P.2054/2002:

1. Puttaswamy,
Proprietor,
M/s. Kaveri Agro Agencies,
Holalu Circle,
J.Devayya Complex,
Old M.C.Road,
Mandya.
2. S.Nagaraju,
Proprietor,
Sri.Manjunatha Agro Seeds,
Opp. RAPCMS, Bus Stand Road,
Mandya-01.

PETITIONERS

(By Sri.H.C.Shivaramu & Sri.Udayakumarsingh, Advocates)

-: VERSUS :-

State of Karnataka,
Represented by its
Assistant Director of
Agriculture and
Seeds Inspector,
Mandya Taluk,
Mandya.

RESPONDENT

(By Sri.B.A.Belliappa, High Court Government Pleader)

Criminal petition filed under Section 482 of the Criminal Procedure Code to quash the entire proceedings in Spl. Case No.89/2001 on the file of the Spl. Court, Dist. and Sessions Judge, Mandya, now transferred and renumbered as C.C.No.329 of 2002 before the CJM, Mandya.

In CrI.P.2206/2002:

1. Sri.Ravindra.C.Baligar
Malaprabha Agro Kendra (P) Ltd.,
Swimming Pool Complex, Hubli.

2. K.G.N.Sharma,
Territory Manager,
Maharashtra Hybrid
Seeds Co. Ltd.,
Raheja Tower,
M.G.Road,
Bangalore.

PETITIONERS

(By Sri. Uday Kumar Singh, Advocate)

-: VERSUS :-

The State of Karnataka
represented by its Assistant
Director of Agricultural-
cum-Seed Inspector,
Hubli.

RESPONDENT

(By Sri.B.A.Belliappa, High Court Government Pleader)

Criminal petition filed under Section 482 of the Criminal Procedure Code to quash the entire proceedings in

C.C.No.630/1999 on the file of the JMFC II Court, Hubli, and the order dated 19-3-2002 passed by the Principal Sessions Judge, Dharwad, in Cri.R.P.35/2000.

In Cri.P.2532/2002:

1. Sri.Lakshmappa Basappa Basapur
Proprietor,
Sri.Maruthi Agro Centre
and General Stores,
Ambabhavani Nagara,
Mundaragi.
2. Shree Enterprises,
Namjoshi Road,
Gadag.
3. Hindustan Lever Ltd.,
165/166, Backbay Reclamation,
Mumbai-400 020.

PETITIONERS

(By Sri. B.V.Shankara Narayana Rao, Advocate)

-: VERSUS :-

The State of Karnataka
represented by Seeds Inspector
and Agriculture Officer,
Mundaragi.

RESPONDENT

(By Sri.B.A.Belliappa, High Court Government Pleader)

Criminal petition filed under Section 482 of the Criminal Procedure Code to quash the entire proceedings in

C.C.No.23/2002 on the file of the Civil Judge (Jr.Dn.) & JMFC,
Mundaragi.

In Cri.P.2801/2002:

1. K.N.Narayana Murthy,
Proprietor,
M/s.Kalpatharu Krishi Kendra,
Doddapet,
Tiptur.
2. Proprietor
M/s.TRS Traders,
Santhepet,
Hassan-573 201.
3. Producer,
M/s. Hindustan Lever Ltd,
165/166, Backbay Reclamation,
Mumbai – 400 020.

PETITIONERS

(By Sri.B.V.Shankara Narayana Rao, Advocate)

-: VERSUS :-

The State of Karnataka
represented by Seeds Inspector
and Agriculture Officer,
Office of the Assistant Director
of Agriculture,
Tiptur.

RESPONDENT

(By Sri.B.A.Belliappa, High Court Government Pleader)

Criminal petition filed under Section 482 of the Criminal
Procedure Code to quash the entire proceedings in

C.C.No.1199/2001-02 on the file of the Addl. C.J. (Jr.Dn.) & JMFC, Tiptur.

In CrI.P.2802/2002:

1. R.R.Roddam,
Shree Enterprises,
Pujari Buildings,
Niligin Road,
Hubli-29.
2. T.Sadashiva,
Hindustan Lever Ltd.,
C/o Shree Enterprises,
Niligin Road,
Hubli.

PETITIONERS

(By Sri.B.V.Shankara Narayana Rao, Advocate)

-: VERSUS :-

The State of Karnataka
represented by Seeds Inspector
and Agriculture Officer,
Navanagar,
Hubli.

RESPONDENT

(By Sri.B.A.Belliappa, High Court Government Pleader)

Criminal petition filed under Section 482 of the Criminal Procedure Code to quash the entire proceedings in C.C.No.631/1999 on the file of the JMFC II, Hubli.

In CrI.P.2865/2002:

B.G.Siddappa,
Fertilizer, Seed & Pesticides Dealer,
Main Road,
Harihar.

PETITIONER

(By Sri.B.V.Shankara Narayana Rao, Advocate)

-: VERSUS :-

The State of Karnataka
represented by
the Agriculture Officer
and Seeds Inspector,
Farm Information Centre,
Kasaba Hobli,
Harihar.

RESPONDENT

(By Sri.B.A.Belliappa, High Court Government Pleader)

Criminal petition filed under Section 482 of the Criminal Procedure Code to quash the entire proceedings in C.C.No.115/2002 on the file of the CJ (Jr.Dn.) & JMFC, Harihar, including the order taking cognizance for an alleged offence punishable under Section 19(a)(C) and (I) of Seeds Act, 1966.

In CrI.P.2866/2002:

1. Dr.G.M.Ravi,
Hindustan Lever Ltd.,
Hindustan House,
1-10-8/6, Begumpet,
Hyderabad.

2. N.R.Revanna,
M/s. Prabhu Traders,
Hardikar Manjappa Road,
Davanagere.

PETITIONERS

(By Sri.B.V.Shankara Narayana Rao, Advocate)

-: VERSUS :-

The State of Karnataka
represented by Seeds Inspector
and Asst. Agriculture Officer,
Farmer Information Centre,
Kasaba Hobli,
Chennagiri.

RESPONDENT

(By Sri. B.A.Belliappa, High Court Government Pleader)

Criminal petition filed under Section 482 of the Criminal Procedure Code to quash the entire proceedings in C.C.No.296/2001 on the file of the C.J.(Jr.Dn) & JMFC, Chennagiri.

In CrI.P.2943/2002:

Shri.Dr.Ramamurthy,
Hindustan Lever Ltd. (Agri Business)
1-10-8:6, Hindustan House,
Begumpet,
Hyderabad.

PETITIONER

(By Sri. B.V.Shankara Narayana Rao, Advocate)

-: VERSUS :-

The State of Karnataka
represented by
the Asst. Director of Agriculture
cum-Seeds Inspector,
Gulbarga Taluk,
Gulbarga Dist.

RESPONDENT

(By Sri.B.A.Belliappa, High Court Government Pleader)

Criminal petition filed under Section 482 of the Criminal Procedure Code to quash the entire proceedings including the order dated 15-6-2002 in Spl. Case No. 133/2002 on the file of the Spl. & Sessions Judge, Gulbarga.

In Crl.P.3192/2002:

1. Ravindra C. Baligar,
Malaprabha Agro Kendra (P) Ltd,
Swimming Pool Complex,
Hubli.
2. K.G.N.Sharma,
Territory Manager,
Maharashtra Hybrid Seeds
Co. Ltd., Raheja Tower,
M.G.Road, Bangalore.

PETITIONERS

(By Sri. Uday Kumar Singh, Advocate)

-: VERSUS :-

The State of Karnataka
represented by its Assistant
Director of Agricultural-
cum-Seed Inspector, Hubli.

RESPONDENT

(By Sri. B.A.Belliappa, High Court Government Pleader)

Criminal petition filed under Section 482 of the Criminal Procedure Code to quash the entire proceedings in C.C.No.632/1999 on the file of the JMFC II Court, Hubli, dated 27-8-1999 and the order dated 19-3-2002 passed by the Pri. S.J., Dharwad, in CRI.RP.36/2000.

In Crl.P.3690/2002:

1. Rudrappa R. Alagur,
S/o Ramappa Alagur,
aged about 47 years,
Owner of M/s.Nandi Fertilizers,
Banahatti, Tq. Jamkhandi,
Dist. Bagalkot.
2. M/s. Kiran Agro Corporation
Shop No.16, BVVS Complex,
reptd. by its Distributors
Sri.Mohan H. Handral,
Bagalkot, Dist. Bagalkot.

PETITIONERS

(By Sri. S.P. Kulkarni, Advocate)

-: VERSUS :-

The State of Karnataka
represented by its Agriculture
Officer (Seeds and Fertilisers)
Terdal, Tq. Jamakhandi,
Dist. Bagalkote.

RESPONDENT

(By Sri. B.A.Belliappa, High Court Government Pleader)

Criminal petition filed under Section 482 of the Criminal Procedure Code to quash the entire proceedings in C.C.No.398/2002 on the file of the JMFC, Banahatti.

In CrI.P.4159/2002:

1. Sri. H.P.Suresh,
age 36 years,
Proprietor
Sri.Nanjundeshwar Traders,
Mannure Trader,
Hullahalli – 571 314,
Nanjangud.
2. Sri.R.Venkatesh,
S/o late Rudredouda
Aged 38 years,
Proprietor
Sri.Venkateshwar Hybrid Seeds,
No.188-1, Behind Cana Finance
Ramvilas Road, Mysore.
3. Sri.S.S.Patil,
aged about 60 years,
Proprietor
Somanath Seeds
Siddalingeswar Nagar,
Gadag – 582 101.
4. Siddaramanna,
aged about 45 years, Worker,
Sri. Venkateshwara Hybrid Seeds,
No.188/1, Ramavilas Road,
Mysore.

PETITIONERS

(By Sri. S.P.Kulkarni, Advocate)

-: VERSUS :-

**The State of Karnataka
Represented by its Asst. Agri.
Officer and Seeds Inspector,
Hullahalli Zone
Nanjanagud,
Dist. Mysore.**

RESPONDENT

(By Sri. B.A.Belliappa, High Court Government Pleader)

**Criminal petition filed under Section 482 of the Criminal
Procedure Code to quash the entire proceedings in
C.C.No.792/2002 on the file of the Prl. C.J. (Jr.Dn.) & JMFC,
Nanjangud.**

In CrI.P.4224/2002:

**Sri.G.V.Harlekar,
Major, Akshaya Agro
Sales Pvt. Ltd.,
No.7, Swimming Pool Complex,
P.B.Road,
Hubli-29.**

PETITIONER

(By Sri. Uday Kumar Singh, Advocate)

-: VERSUS :-

**The Assistant Director
of Agriculture and Seed
Inspector,
Naragund.**

RESPONDENT

(By Sri.B.A.Belliappa, High Court Government Pleader)

Criminal petition filed under Section 482 of the Criminal Procedure Code to quash the entire proceedings in C.C.No.149/1999 on the file of the Civil Judge (Jr.Dn.) and JMFC, Naragund.

In Crl.P.4494/2002:

1. Mallappa,
S/o Channaveerappa Matti,
Aged 35 years,
Dealer of M/s.Sri.Mallikarjun
Agencies, Galagali – 587 117,
Tq. Bilagi, Dist. Bagalkot.

2. Mohan,
S/o Hanumantha Rao @
Lachappa Handral,
Aged about 36 years,
Distributor,
Kiran Agro Corporation,
Shop No.16, BVVS Complex,
College Road,
Bagalkot –587 191.

RETITIONERS

(By Sri. S.P.Kulkarni, Advocate)

-: VERSUS :-

The State of Karnataka
represented by its Seeds Inspector,
Bilagi Tq. Bilagi. Dist. Bagalkot now
represented by its State PP
Karnataka High Court Building,
Bangalore-560 0012.

RESPONDENT

(By Sri.B.A.Belliappa, High Court Government Pleader)

Criminal petition filed under Section 482 of the Criminal Procedure Code to quash the entire proceedings in C.C.No.131/2002 (P.C.No.16/2002) on the file of the JMFC, Bilagi.

These petitions coming up for pronouncement of order this day, the Court made the following:

O R D E R

All these petitions filed by different petitioners pertain to the prosecution of the petitioners for having committed the offence punishable under Section 19(a) of the Seeds Act, 1966 (hereinafter referred to as the Act) by the respective Assistant Director of Agriculture and Seeds Inspector. As common questions of law arise for consideration in these petitions, all the matters are taken up together for consideration and disposed of by this common order.

The brief facts which are common in all these cases are that the petitioners, who are accused in the respective Criminal



Cases or the Special Cases pending before the respective Judicial Magistrate First Class or the Sessions Judge, are the dealers, distributors or producers of various seeds which are governed by the Act. All these petitioners have been prosecuted for the contravention of Section 6 of the Act read with the penal provisions of Section 19 of the Act on the ground that, when the premises of the dealers or the sellers of the seeds were checked by the concerned Seeds Inspector, he suspected the seeds to be sub-standard ones, that is to say, the seeds did not confirm to the minimum limit of germination and purity as specified under Section 6 of the Act. As such, following the procedure prescribed the respondent after dividing the sample seeds in three lots sent one sample lot to the Seed Analyst, another lot was retained by him and the third lot was given to the petitioner. In all these cases, after the receipt of the report of the Seeds Analyst that the germination percentage of these seeds is below the norms fixed and as such the purity is affected it was held that the seeds are substandard ones. Thereafter, the respondent has issued



notices to the petitioners which have been replied to in most of the cases and being not satisfied with the reply the respondent has proceeded to file the criminal complaints under Section 200 Cr.P.C. against the petitioners alleging the commission of the offence under Section 6 of the Act.

The concerned Courts have taken cognizance of the offence, registered the cases and issued process against the accused. The accused have appeared before the learned Magistrates or the Sessions Judges and have been released on bail and the trial is pending.

At this stage, all these petitioners have approached this Court under Section 482 Cr.P.C. praying for quashing of the proceedings.

The common arguments of the petitioners, as put forth by Sri. Devaraj, learned Senior counsel in these cases, are: Under Section 16(2) of the Act, a right has been provided to the



accused to get the samples re-analysed by the Central Seeds Laboratory. Under Section 16(3) of the Act, the report of the Central Seed Laboratory superseded the report of the Seeds Analysts. It is contended that in all these cases, though the samples were taken and sent to the Analysts and reports were received at the earliest, the filing of the complaints is belated, in the sense, by the time the complaints were filed before the learned Magistrate or the Sessions Judge, the shelf life of the seeds had expired and especially even after the issuance of the summons, as per Section 16(2) of the Act the accused could not exercise the statutory right provided under the Act as the same would have been rendered worthless. As such, since the petitioners have been deprived of the valuable statutory right provided under the Act, the prosecution is illegal and liable to be set aside.

Nextly, it is also contended that in all these cases, the seeds in respect of which the present prosecutions have been lodged have already been certified by Certification Agency as

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provided under Section 9 of the Act. As per the said Certificate issued by the competent and statutory agency, the seeds in question have been certified as pure (standard) and in conformity with the requirement of the minimum limit of germination. It is submitted that the said Certificate is valid for a period of six months and extendable to another six months subject to the further satisfaction of the Certification Agency. However, in all these cases, the seeds have been seized and the prosecution has been launched much later than the expiry of the shelf life of the seeds which is illegal and unsustainable. It is also contended that even the alleged Seed Analyst's reports do not reveal the date of test, validity of the shelf life or as to on what basis the said conclusion of below standard has been arrived at. It is submitted that by the bare looking of these Certificates which are in printed forms it is apparent that only certain basic informations are mentioned therein and not the required reasons as to why these seeds were found to be substandard or not in conformity with the minimum standard prescribed. It is submitted that, since the statute itself provides



a right to the petitioners to get the seeds once again tested by the Central Seed Laboratory whose report is actually final indicates that for the satisfaction of the Court the minimum analysis details are to be mentioned in these reports. Hence, in the absence of such reports, the present prosecutions are illegal and liable to be set aside.

It is also contended that, since the learned Magistrates or the learned Sessions Judges have not taken into account these aspects, their act of taking cognizance appears to be mechanical in nature without application of mind. All these among other grounds it is contended that these are fit cases to quash the proceedings.

On the other hand, learned High Court Government Pleader appearing for the respondent/State argued in support of the prosecution. At the outset, he contended that, as these petitions are filed under Section 482 Cr.P.C. for quashing the proceedings, in the light of the pronouncement of the Hon'ble

Sr

Supreme Court in various cases including the case STATE OF HARYANA AND OTHERS v. CH. BHAJAN LAL AND OTHERS (A.I.R. 1992 S.C., 604), this Court should not interfere and quash the proceedings thereby depriving the State to prove its case by substantiating the same during trial.

In so far as the mandatory requirement and its compliance under Section 16 of the Act is concerned, this Court in the case V. CHANDRU AND OTHERS v. STATE OF KARNATAKA REP. BY ITS AGRICULTURAL OFFICER AND SEEDS INSPECTOR (I.L.R. 2002 KAR., 1205) following an unreported decision in the case SHAILAJA v. STATE (Cri.P.No.2743 of 2001 decided on 13-9-2001) as well as the decision of the Hon'ble Supreme Court in the case STATE OF HARYANA v. UNIQUE FARMAID (P) LIMITED AND OTHERS {1999 SCC(Cri) 1404} has observed thus:

"8. In so far as the question of limitation is concerned particularly for the offence arising under the Seeds Act, in the



case of SHAILAJA vs. STATE (Cr.I.P.No.2743/2001 dd 13-9-2001, this court has elaborately considered this aspect as to what is the starting point of limitation as per Section 19 of the Act. Since the punishment for the first offenders for contravention of the second and later offence by the same accused, the same being maximum of six months and fine of maximum of Rs.1000/- the limitation to file Complaint as per Section 468 Cr.P.C. is six months. There is absolutely no material at this stage to show prima facie that the petitioners are habitual offenders under the Act. As such, it is to be treated as the petitioners are the first offenders and in that case the maximum punishments awardable is only a fine. In view of this maximum punishment, as per Section 468, Clause 2(a) of Cr.P.C., the period of limitation would be six months. In the aforesaid pronouncements of this Court, it is held that the date of report or receipt of the report that would give the cause of action and that is the starting point for the limitation. Admittedly, in the present case, the report as per the Complainant itself was received



on 19-9-1998 and since the Complaint is not filed within six months there of and in fact has been filed beyond two years, the prosecution is beyond the period of limitation and on this count itself, the proceedings initiated against the petitioners are liable to be quashed.

8. Nextly, it is to be seen that the report of the Local Seed Testing Laboratory is not final and conclusive so as to hold the petitioners guilty of contravention of the provisions of the Act. Under Section 16(2) of the Act, after filing of a Complaint and issue of process, an opportunity is available to the accused to challenge the report by way of making an application to the Court for seeking the sample to the Central Seed Laboratory for re-testing or re-checking the veracity of the report of local laboratory and as per Clause 3 of the Act, this report of the Central Seed Testing Laboratory supercedes the report of the Local Seed Testing Laboratory. As rightly contended by the learned Counsel for the petitioners, the Indian Seeds Minimum Certification Manual itself prescribes the

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validity period of such Certificates is nine month and as is not much in dispute, the shelf-life of seeds is taken as nine months. Any prosecution has to be filed within that period of nine months. If it is not done, then, opportunity of challenging the rebutting the Local Seed Testing Laboratory by submitting the Seeds beyond the said nine months to the Central Seeds Tests Laboratory would be lost. As such, the basic right of the accused to defend himself by proving the correctness or otherwise of the Local Seed Testing Laboratory report is taken away or made nugatory by launching the prosecution beyond this period of nine months. Since the right to defend is one of the fundamental rights and if such rights are taken away by delay or laches on the part of the prosecuting agency, the prosecution becomes illegal. Hence, in my view as the prosecution has been filed on 6-6-2001, that is almost after a period of two years from the date of report, thereby negating the right of the accused to get the seeds tested as the shelf-life itself has already expired, the prosecution has to be quashed



on this count also. In this regard, the observation of the Apex Court in the cases of STATE OF HARYANA vs UNIQUE FARMAID (P) LIMITED AND OTHERS (1999 SCC(Cri) 1404) is worth noting.

'If the expiry date of the sample was not relevant, there was no reason why in the form prescribed for submission of the report by the InsecticideAnalyst, the dates of manufacture of the article and the expiry date are mentioned.

Section 30 provides for defences which may or may not be allowed in prosecution under the Act. Section 30(1) only prescribes in effect that ignorance would be no defence but that does not mean that if there are contraventions of other mandatory provisions of the Act, the accused have no remedy. The procedure for testing the sample is prescribed and if it is contravened to the prejudice of the accused, he certainly has the right to seek dismissal of the complaint. Then in order to safeguard the right of the accused to have the sample tested from the Central Insecticide Laboratory, it is incumbent on the prosecution to file the complaint expeditiously so that the right of the accused is not lost. In the present case, by the time the respondents were

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asked to appear before the Court, the expiry date of the insecticide was already over and sending of the sample to the Central Insecticides Laboratory at that late stage would be of no consequence. Therefore, in view of Sections 24(3) and 245(4) of the Insecticides Act the report of the Insecticide Analyst was not conclusive. A valuable right had been conferred on the accused to have the sample tested from the Central Insecticides Laboratory and in the circumstances of the case the accused have been deprived of that right, thus, prejudicing them in their defence. In these circumstances, the High Court was right in concluding that it would be an abuse of the process of the Court if the prosecution was continued against the accused persons. The High Court rightly quashed the criminal complaint.'

Though the case with which the Apex Court was dealing arises from the Insecticide Act, the principles laid down in the said pronouncement are clearly attracted to this case also as the provisions of both Act are on par with each other regarding this aspect. Hence the second contention of the learned Counsel for the petitioners that because of delay and laches, prejudice is caused to his case and



thereby the valuable right to defend has been taken away, has to be accepted.

9. In the result, it is to be held that the present prosecution is barred by limitation as well as in contravention of the mandatory provisions including the fundamental rights of the accused of giving opportunity to defend has been taken away.”

The finding and observation in the latest pronouncement of the Hon'ble Supreme Court in the case M/s.GUPTA CHEMICALS PVT. LTD. AND OTHERS v. STATE OF RAJASTHAN AND ANOTHER {2002(2) FAC 148} is worth noting. That case arose for the offence under the Insecticides Act. But, the mandatory provisions in that Act are pari materia to the provisions of the Act in so far as the statutory rights to the petitioners are concerned. The Hon'ble Supreme Court has held as follows:

“12. From our perusal of the aforequoted provisions it is manifest that

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ordinarily in the absence of any material to the contrary, the report of the Insecticides Analyst will be accepted as final and conclusive of the material contained therein. This is however subject to the right of the accused to have the sample examined by the Central Insecticides Laboratory provided he communicates his intentions for the purpose within 28 days of the receipt of the copy of the report. It needs no emphasis that this right vested under the statutes valuable for the defence. As noted earlier in the present case the appellants had intimated the insecticide inspector their intention to have the sample tested in the central insecticides laboratory within the prescribed period of 28 days of receipt of the copy of the state analyst report, yet no step was taken by the inspector either to send the sample to the central insecticides laboratory or to file the complaint in the court with promptitude in which case the appellants would have moved the magistrate for appropriate order for the purpose. The resultant position is that due to sheer inaction on the part of the inspector, it has not been possible for the



appellants to have the sample examined by the central insecticides laboratory and in the meantime, the self-life of the sample of insecticides seized had expired and for that reason no further step could be taken for its examination. In the circumstances, we are of the view that continuing this criminal prosecution against the appellant will be a futile exercise and abuse of the process of court. ”

In my view, though the aforesaid judgement is in a case arising under the Insecticides Act, as the rights provided therein the accused are in pari materia with the rights under the Act, i.e., Seeds Act, the law laid down is squarely applicable to the present case also and as such the prosecution is to be held as illegal. In an unreported Judgment, the High Court of Judicature at Bombay in the case Mr.RAO, S.O.M., HINDUSTAN LEVER LIMITED, SECUNDERABAD, A.P. v. BHASKAR TANNAGI BADKAL, DIST. QUALITY CONTROL INSP., AGRL. DEV. OFFICE, AKOLA (Criminal Application No.878 of 1986 decided on 7-11-1989) has considered these



provisions of the Act and almost in the similar circumstances under the Act has held that, as the statutory rights of the accused are affected, the prosecution is not maintainable.

In the present case also, having looked into the provisions of the Act especially Section 8 which provides for setting up a Certification Agency by the Central or the State Government and Section 9 of the Act which provides for grant of certificate by the Certification Agency as to the seeds conform to the prescribed standard as well as Rule 17 of the Rules make it quite clear that as the Certificate issued by the Certification Agency protects the accused from any prosecution as long as the certificate is valid and operative. In all these present cases, the seizure of the seeds is within the expiry of the Certification period and filing of the present complaints beyond the period prescribed under the Certificate clearly, in my view, defeats the very object of obtaining the Certificate as well as the statutory rights provided to the petitioners and hence such prosecution is to be held as illegal and liable to be quashed.

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As this Court has already noted, our country is mainly an agricultural based country and, no doubt, quality seeds are the essence for growing good crop and as such the authorities under the Act are empowered to take action against the erring seed producers or the seed sellers, who produce and sell sub-standard seeds to the innocent and mostly illiterate farmers. But, at the same time it cannot be forgotten that certain valuable rights have also been conferred upon the seed producers and sellers so as to protect them from malicious prosecution or at any rate the prosecution without application of mind or due to sheer negligence in not following the mandatory requirements. As such, I deem it fit to direct the Registry to send a copy of this order to the Department of Agriculture for taking effective steps to curb the negligence or inaction pointed out on the part of the Seed Inspector and other concerned authorities and hope the Government will take appropriate steps in this regard.



In the result and for the reasons stated above, in my view, as the prosecution launched against the petitioners is being barred by limitation as well as is in contravention of the mandatory provisions including violative of the statutory rights of the accused are clearly unsustainable and hence the prosecution in each of these petitions is liable to quashed and accordingly the same is quashed.

Sd/-
Judge

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