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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1030 of 2014**

Rajendra Dhanpal Zele & Ors.Applicants

Versus

The State of MaharashtraRespondent

WITH

CRIMINAL APPLICATION NO.883 OF 2013

WITH

CRIMINAL APPLICATION NO.884 OF 2013

WITH

CRIMINAL APPLICATION NO.885 OF 2013

WITH

CRIMINAL APPLICATION NO.886 OF 2013

Suresh Narayanan through his
Power of attorney holder Mr.
Himanshu JainApplicant

Versus

The State of MaharashtraRespondent

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Mr. Sunil Manohar, Senior counsel i/b Ms Neha Bhide and Gaurai Deshpande for the Applicants in all Criminal Applications.

Smt. V.S. Mhaispurkar, APP for Respondent -State.

CORAM:-M.L. TAHALIYANI, J.

DATED : -30th JUNE, 2015.

P.C.

Heard learned senior counsel Mr. Sunil Manohar for the Applicants and learned APP, Smt. V.S. Mhaispurkar for the Respondent-State.

2. The applicants in all the Criminal Applications have raised a

common issue of law and therefore, all the applications are being disposed of by a common order.

3. The issue involved in the present applications pertain to the right of the accused under section 13(2) of Prevention of Food Adulteration Act, 1954. It is contended by the learned counsel for the applicants that since the complaints were filed in the court after expiry of shelf life of the product, the statutory right of the applicants available under section 13(2) of the Act was defeated and therefore, prosecutions pending against them need to be quashed.

4. The sample in question in Criminal Application No. 883 of 2013, 884 of 2013, 885 of 2013 and 886 of 2013 was Kisan Mixed Fruit Jam. The relevant dates of launching of prosecution, manufacturing, report of public analysts, filing of cases etc. are as under :

Case No.	Arising Out of	Product	Level of SO ₂ against 40 PPM	Date of Mfg.	Date of sampling	Date of Pa Report	Date of consent Order	Date of filing of case	Date of issue of process	Delay from the date of Mfg.	Delay from the date of Sampling
883/2 013	RCC 647/19 97 JMFC Pimpri, Pune	Kissan Mixed Fruit Jam	130.34 PPM	May, 1996	01/08/96	31/8/96	20/12/97	22/12/99		18 Months	17 Mont hs

Case No.	Arising Out of	Product	Level of SO2 against 40 PPM	Date of Mfg.	Date of sampling	Date of Pa Report	Date of consent Order	Date of filing of case	Date of issue of process	Delay from the date of Mfg.	Delay from the date of Sampling
884/2 013	RCC 238/19 98 Renumbered 860/20 02 CJM Kolhapur	Kissan Mixed Fruit Jam	156.36 PPM	Dec., 1996	07/02/97	19/3/97	21/5/98	09/07/98	09/07/98	19 Months	17 Months
885/2 013	RCC 136/19 98 Renumbered 93/201 1 CJM Pandharpur	Kissan Mixed Fruit Jam	71.24 PPM	Nov., 1996	03/12/96	09/01/97	21/5/98	10/07/98	11/08/98	20 Months	19 Months
886/2 013	RCC 239/19 98 Renumbered 861/20 02 CJM Kolhapur	Pineapple Jam	154.29 PPM	Jan., 1997	07/02/97	19/3/97	21/5/98	09/07/98	09/07/98	18 Months	17 Months

5. The above chart indicates the date of manufacturing, date of sampling, date of report of public analyst, date of launching of prosecution, date of issuance of process, delay from the date of manufacturing and delay from the date of sampling in Criminal Applications Nos. 883 of 2013, 884 of 2013, 885 of 2013 and 886 of 2013. As far as Criminal Application No. 1030 of 2014 is concerned, the sample in question was Saffola Kardi Oil. It was drawn on 16th October, 1998. One of the part of sealed sample was sent to Pune Public health Laboratory on 17th October, 1998. The report of the

Public Analyst was received on 3rd December, 1998. The consent was granted by the competent authority for launching the prosecution on 24th January, 2000 and the complaint was filed on 22nd March, 2000.

6. It is an admitted position that in all the cases, samples were reportedly not in accordance with the standards laid down under the Prevention of Food Adulteration Act. As far as mixed fruit jam is concerned, it is not disputed that the shelf life of the said product was twelve months. As far as oil is concerned, shelf life was nine months. It is thus clear from the dates mentioned in the above chart relating to mixed fruit jam and the dates relating to Saffola Kardi Oil, that the prosecutions were launched much after the expiry of shelf life of the articles in question. If the shelf life of the food has expired long back, it follows that there was no point in getting the second sample analyzed under section 13(2) of Prevention of Food Adulteration Act. It was the duty of the Food and Drugs Administration to take care that a person accused of the offence gets an opportunity of getting the second sample analyzed within shelf life of the sample in question. Without commenting upon the negligence on the part of Food and Drugs Administration, it is sufficient to mention here that the statutory right of the applicants

under section 13(2) of the Prevention of Food Adulteration Act, has been defeated and therefore, the prosecutions pending against the applicants cannot be allowed to be continued. They need to be quashed.

7. In the result, I pass the following order :

Criminal proceedings pending against the Applicants in the above stated applications vide Regular Criminal Case No.7 of 2000 pending in the court of Chief Judicial Magistrate, Oros, Sindhudurga, R.C.C. No.647/1997, pending in the Court of J.M.F.C., Pimpri, Pune, RCC 238/1998 (new No.860/2002) pending in the Court of CJM, Kolhapur, RCC/136/1998 (new No.93/2011) pending in the Court of CJM, Pandharpur, RCC 239/1998 (new No.861/2002) pending in the Court of CJM, Kolhapur, are hereby quashed. The bail bonds of the Applicants, if any, shall stand cancelled.

All the applications are accordingly disposed of.

(JUDGE)