

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRI. WRIT PETITION NO. 1106 OF 2015

Fresenius Kabi India Pvt. Ltd., & 6 Others. ... Petitioners.

V/s.

State of Maharashtra & Anr. ... Respondents.

Mr. Subhash Jha a/w. Ms. Rushita Jain i/by Law Global for
Petitioners.

Smt. A. A. Mane, A.P.P. for the State.

CORAM : M.L.TAHALIYANI,J.

DATE : 24th JUNE, 2015

P.C. :

1 Admit. Heard finally.

2 Heard learned counsel Mr. Jha appearing for the
petitioners and learned additional public prosecutor Smt.
Mane for the State.

3 The petitioners are prosecuted along with the
other four accused for the offence punishable under section
59 of the Food Safety and Standards Act, 2006. The petitioner
nos. 2 to 7 were directors of the petitioner no.1. Accused nos.
8 to 10 are the directors of accused no.11. Accused no. 11
viz. Drytech Processes (I) Pvt. at Nagpur Road, Pandhurna,

Distt. Chhindwara (M.P.) are manufacturers and suppliers of Food Articles i.e. Nutritionally Balanced Meal Replacement for Diabetics (Proprietary Food) with a brand name of "Fresubin". The petitioner no. 1 is the trader and he was marketing food articles, manufactured by accused no. 11. As already stated, the petitioner nos. 2 to 7 are directors of the petitioner no.1 (original accused no.7). Accused no. 11 has authorized the accused no. 8 - Yogesh Amrutlal Shah under Rule 2.5.1 of the Food Safety and Standards Rules, 2011 for the purpose of Section 66 of the Food Safety and Standards Act, 2006 and Regulations made under section 31 of the Act.

4 It is submitted by Mr. Jha that there are no averments against the petitioner nos. 2, 3, 4, 5 and 6. I have gone through the complaint and I agree with the learned counsel for the petitioners that there are no averments in the complaint with regard to these petitioners as to what role they had played in the alleged offence and as to how they were responsible for the conduct of the business of the company.

5 Since the accused no. 11 are the manufacturers of the food articles which were found unsafe and since accused no. 8 is the authorized person/ nominated person under Rule 2.5.1 of the Rules, 2011 and since there are no averments made against the petitioner nos. 2, 3, 4, 5 and 6, in my

opinion, the proceedings against the said petitioners need to be quashed.

6 The learned counsel Mr. Jha withdraws the writ petition filed on behalf of petitioner no.1. The writ petition of petitioner no.1 stands disposed of as withdrawn.

7 The proceedings pending against the petitioner nos. 2, 3, 4, 5 and 6 vide criminal case no. 8487 of 2013, pending before the court of Judicial Magistrate, First Class, Pune, for the offence punishable under section 59 of the Food Safety and Standards Act, 2006 shall stand quashed.

8 Their bail bonds, if any, shall stand cancelled.

9 The Writ Petition stands disposed of accordingly in the above terms.

(JUDGE)

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