

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

WEDNESDAY, THE 9TH DAY OF DECEMBER 2015/18TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 868 of 2007 ()

AGAINST THE ORDERE IN CMP NO.3666/2006 IN CC 15/1996 of ADDL.CHIEF
JUDICIAL MAGISTRATE, THIRUVANANTHAPURAM DATED 26-12-2006

REVISION PETITIONER(S)/PETITIONERS/ADDL. ACCUSED NO.14-16 IMPLEADED
IN C.M.P.NO.3666/2006 IN C.C.15/1996:

1. THE KERALA STATE CIVIL SUPPLIES
CORPORATION LIMITED, MAVELI BHAVAN, GANDHI NAGAR
KOCHI, REP. BY ITS, MANAGING DIRECTOR.
2. SMT. SHEELA THOMAS, I.A.S.,
W/O. K.J.JACOB, AGED 60, PRINCIPAL SECRETARY TO
CHIEF MINISTER, GOVERNMENT OF KERALA
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.
3. SRI. R.SURENDRANATHAN NAIR,
S/O. RAGHAVAN PILLAI, AGED 58, DEVARAGAM
KASARKODU, TEMPLE LANE, THIRUMALA P.O.
THIRUVANANTHAPURAM-6.

BY ADVS.SRI.R.LAKSHMI NARAYAN
SHRI N.D.PREMACHANDRAN, SC, SUPPLYCO

RESPONDENT(S)/PETITIONER AND RESPONDENT IN C.M.P.NO.3666/2006 IN
C.C.15/1996:

1. S. VELAYUDHAN PILLAI, ASSISTANT SECRETARY,
VATTIYOORKAVU SERVICE O-OPERATIVE BANK LTD NO.1652,
VATTIYOORKAVU.
2. FOOD INSPECTOR, CORPORATION OF THIRUVANANTHAPURAM

R1 BY ADV. SRI.S.P.ARAVINDAKSHAN PILLAI
R1 BY ADV. SMT.N.SANTHA
R1 BY ADV. SRI.PETER JOSE CHRISTO
R2 BY ADV. SRI.N.NANDAKUMARA MENON (SR.)
R2 BY ADV. SRI.P.K.MANOJKUMAR, SC, TVPM CORPORATION

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 09-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

acd

P.D. RAJAN, J.

Crl.R.P.No.868 of 2007

Dated this the 9th day of December, 2015

ORDER

The revision petitioners, who are additional accused 14 to 16 in C.C.No.15/1996 before the Additional Chief Judicial Magistrate Court, Thiruvananthapuram, challenges the order in C.M.P.No.3666/2006 of the above court. The facts of the case is that the Food Inspector, Corporation of Thiruvananthapuram filed a complaint against the 1st respondent and the members of the Board of Directors of the Vattiyoorkavu Service Co-operative Bank Ltd No.1652, alleging offence punishable under the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as the 'PFA Act') The allegation is that on 12.12.1995 at 11 a.m., the 2nd

respondent took sample of adulterated turmeric from the Maveli Store run by the Vattiyoorkavu Service Co-operative Bank Ltd. No.1652. During trial, the salesman of the Maveli Store informed that the turmeric was purchased from the Civil Supplies Corporation as per bill dated 25.8.1995 and 28.8.1995. On examination of the Food Inspector, it has come to the knowledge that the turmeric was sold in the same state as it was purchased from the Civil supplies Corporation and they are the licensed dealer and distributor primarily concerned with the offence, hence they were impleaded as accused 14 to 16, as per the direction in C.M.P. No.3666/2006 under Section 20A of PFA Act. Being aggrieved by that, accused 14 to 16 have approached with this revision petition.

2. Heard both sides. The revisional jurisdiction can be exercised by this Court as a supervisory jurisdiction to

examine the proceedings of any inferior criminal courts for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order passed in a case. The object of conferring revisional jurisdiction is to correct grave miscarriage of justice. The fact that the lower court has taken a wrong view of law or misapprehended the evidence on record cannot be a reason to interfere unless it has resulted in grave injustice.

3. Section 20A of the PFA Act reads as follows:

"20A.Power of court to implead manufacturer, etc.- Where at any time during the trial of any offence under this Act alleged to have been committed by any person not being the manufacturer, distributor or dealer of any article of food, the court is satisfied, on the evidence adduced before it, that such manufacturer, distributor or dealer is also concerned with that offence, then, the court may, notwithstanding anything contained in sub-section (3) of section 319 of the Code of Criminal Procedure, 19073(2 of 1974) or in section 20 proceed against him as though a prosecution had been instituted against him under section 20.

The power u/s.20A of the PFA Act can be invoked at the stage of evidence in a trial and it cannot be invoked after the conclusion of the trial. Therefore, the trial Court at the time of invoking Section 20A has to examine the relevant evidence and if the Court is satisfied on evidence that the manufacturer, distributor or dealer is concerned with the offence, then the court may, notwithstanding anything contained in Section 319(3) of the Code of Criminal Procedure, proceed against them. I have perused the documents produced in the trial Court. Ext.D1 is the duplicate of release order dated 25.8.1995 issued by the Kerala State Civil Supplies Corporation from District Depot, Tiruvananthapuram to the Vattiyoorkavu Service Co-operative Bank Ltd. On that date, they sold 25Kg of turmeric at the rate of ₹14.25 per Kg. for a total sum of ₹356.25. Ext.D2 is another duplicate release order dated

28.8.1995, in which 10kg turmeric was purchased for ₹142.50. The Unit Manager of the District Depot signed in Exts.D1 and D2. The revision petitioners' names were not mentioned in Exts.D1 and D2.

4. It is true that the Secretary of the Vattiyoorkavu Service Co-operative Bank purchased turmeric as claimed in Exts.D1 and D2. It is the primary responsibility of the bank authorities to collect the name of the concerned distributor or dealer and implead them as accused u/s.20A of the PFA Act. No materials had been produced in the trial Court to show that the petitioners were manufacturers, distributors or dealers. Therefore, the trial Court invoked Section 20A of the PFA Act without considering the evidence. When an illegality is committed by the trial Court, it has to be rectified by invoking revisional jurisdiction.

In the result, the order in C.M.P.No.3666/2006 in C.C.No.15/19967 is set aside and the accused is at liberty to implead such manufacturer, distributor or dealer who issued Exts.D1 and D2. If such documents are produced and the trial Court is satisfied on such evidence before it, the Court shall implead them as additional accused in that case and dispose the matter as per law within two months from the date of impleading the additional accused.

Crl.R.P.is disposed of as above.

P.D. RAJAN, JUDGE.

acd

