

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.2105 OF 2016

-
ORDER:

-
This Criminal Petition is filed by the petitioner-A2 seeking to quash the proceedings against him in S.T.C.No.151 of 2015 on the file of the Judicial Magistrate of First Class, Puttur, Chittoor District, for the offences punishable under the provisions of Food Safety and Standards Act (in short 'the Act').

Brief facts of the case are that when the complainant-Food Inspector inspected the premises of M/s.S.M. Stores, Kothapalli Mitta Village, Chittoor District, on 21.07.2014 he found adulterated Ragi Flour kept for sale to the public for human consumption. Thus, prosecution was launched after following due procedures prescribed under the Act and obtaining necessary permission against the petitioner and another.

The main contention raised by the learned counsel for the petitioner is that even though the petitioner is the Chairman and Managing Director of the Company, he has already authorized one V. Sukumaran S/o. V. Venugopal as the nominee of the Company and the same was also accepted by the authorities concerned. When once nomination is given and the same is accepted by the authorities concerned, the prosecution lies only against the person so nominated but not against the present petitioner, who is the Managing Director.

This Court perused the record and also heard the arguments.

Section 66 of the Act provides that any offence committed by company, the person who is incharge of the branch or unit nominated by the company shall be responsible for food safety

and shall be liable for contravention in respect of such establishment, branch or unit and shall be liable to be proceeded against and punished accordingly.

Thus, as rightly pointed out by the learned counsel for the petitioner, the petitioner herein cannot be prosecuted since because the authorities have accepted the nomination in Form IX as prescribed under the Act. Thus, the proceedings against the petitioner are liable to be quashed and the same are accordingly quashed. At the same time, the respondent-Prosecution is at liberty to file an appropriate application before the trial Court seeking to implead said V. Sukumaran, who is nominated to represent A.2 – M/s.Aachi Spices and Foods (P) Limited, for due prosecution, upon which, the trial Court is directed to pass appropriate orders on the said application and proceed with the trial.

Accordingly, the Criminal Petition is allowed and the proceedings in C.C.No.151 of 2015 on the file of the Judicial Magistrate of First Class, Puttur, Chittoor District, are hereby quashed against the present petitioner.

Miscellaneous petitions pending if any, shall stand closed.

RAJA ELANGO, J

February 19, 2016.
CTL