

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2017

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.R.C. No.361 of 2011

1. K.S.R.Natarajan

2. N.Senthilnathan

3. M/s.Natarajan Oil Mills (P) Ltd.,
Represented by
K.S.R.Natarajan,
No.99/1-A, Melur Main Road,
Uthangudi, Madurai - 625 107.

... Petitioners/Petitioners
3 to 5 (Accused 3 to 5)

Vs

The Food Inspector,
Idappadi Muncipilatiy
Idappadi,
Salem District.

... Respondent/Respondent/
Claimant

Prayer:Criminal Revision Petition filed under Sections 397 and 401 of the Criminal Procedure Code, to call for records pertaining to the order passed in Criminal Miscellaneous Petition in Cr.M.P.No.2486 of 2009 in C.C.286 of 2002 dated 04.05.2010 on the file of the Judicial Magistrate No.II, Sankagiri and set aside the same by allowing this Criminal Revision.

For Petitioners : Mr.P.Prince Prem Kumar

For Respondent : Mr.E.Raja,
Additional Public Prosecutor

O R D E R

This revision has been filed against the order of the trial court passed in Cr.M.P.No.2486 of 2009 in C.C.286 of 2002 dated 04.05.2010 filed for discharge of the revision petitioners from the complaint filed by the respondent.

2. The brief facts of the prosecution case is that the respondent has filed a complaint as against the revision petitioners under Sections 7(ii) and 16(1)(a)(i) r/w. Section 2 (ix) (k) of the P.F.A. Act 1954 and Rule 32(e) of Prevention of Food Adulteration Act Rule 1955. Since the complaint was filed otherwise than a police report, necessary witnesses have been examined. At this stage, the petitioners have filed a petition to discharge them from the said complaint.

3. The main contention of the petitioners is that there is a delay in lodging the complaint and also in obtaining sanction and also getting opinion of the expert. Therefore the prosecution case is not maintainable.

4. Heard the learned counsel for the revision petitioners and the learned Additional Public Prosecutor for the respondent and perused the materials available on record.

5. Admittedly, the petitioners are prosecuted for the offences under sections 7(ii) and 16(1)(a)(i) r/w. Section 2(ix) (k) of the Prevention of Food Adulteration Act 1954 and Rule 32 (e) of Prevention of Food Adulteration Act Rule 1955 and the prosecution has also examined certain witnesses as the complaint has been filed otherwise than a police report. The contentions put forth by the revision petitioners at this stage, with regard to the delay in obtaining sanction and obtaining expert opinion, are matters for appreciation of evidence by the Magistrate during trial and at the time of judgment. For framing of charges, what has to be seen by the Magistrate is only a prima facie case and not the evidence proof beyond reasonable doubt. Only when there is prima facie materials exhibited on the basis of the evidence of the prosecution side, the Magistrate can, on the basis of such materials and suspicion which are strong to proceed as against the accused to frame charges. Therefore, the contention of the learned counsel for the petitioner as to the delay in obtaining sanction and obtaining opinion of the samples were all the matters for appreciation of the trial Court at the time of trial and the same cannot be judged in the revisional jurisdiction. Therefore, this Court is of the view that discharging of the petitioners at this stage cannot be made, in view of the strong suspicion exhibited as against the petitioners.

6. Accordingly, this Criminal Revision is dismissed. The revision petitioner is at liberty to canvas his case on merits and raise all his grounds in the case. The learned Judicial Magistrate is directed to dispose of the case in C.C.No.286 of 2002 within three months from the date of receipt of a copy of this Order.

Miscellaneous Petition 1/2011 is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vrc

To

1. The Judicial Magistrate No.II,
Sankagiri
2. The Food Inspector,
Idappadi Muncipilatiy
Idappadi,
Salem District.

Cr1.R.C.No.361 of 2011

VGI (CO)
GN(24/07/2017)

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