

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

CRL.O.P.No.9008 of 2011 and
M.P.No.1 of 2011

1. M.K.Subramanian

2. Narasus Coffee Company
16, Court Road,
Johnsonpet,
Salem - 636 007.

.. Petitioners

Vs

Food Inspector,
Tiruppur City Municipal Corporation,
Tiruppur - 638 604.

... Respondent

PRAYER:

Petition under Section 482 of the Code of Criminal Procedure, against the proceedings initiated against them in C.C.No.191 of 2009 on the file of Judicial Magistrate No.I, Pollachi and pray that this Court may be pleased to quash the proceedings.

For Petitioners : Mr.K.V.Sridharan

For Respondent : Mr.P.Govindarajan

Addl. Public Prosecutor

ORDER

This criminal original petition is preferred by the petitioners/accused A1 and A3 against the proceedings in C.C.No.191 of 2009 on the file of the learned Judicial Magistrate No.I, Pollachi.

2.Brief case of the petitioner/accused A1 and A3 is that

The facts of the case is that the 1st petitioner/accused is a vendor of the food product namely Narasu's coffee powder manufactured by the 3rd petitioner/accused, Narasu's coffee

company, Salem. The second petitioner/accused was the nominee of the 3rd petitioner/accused on the date of taking sample namely on 30.01.2008. It is the further case of the prosecution is that the respondent took sample of coffee powder from the shop of the 1st petitioner/accused on 30.01.2008. The sample was sent to public analyst. The analyst report dated 19.02.2008 has opined that the sample is adulterated since it found to contain moisture in excess than the prescribed limit, as per appendix B to PFA rule 1955. Also the sample is found to be misbranded, since false claims are made upon the label as per section 2(ix) (e) of the Prevention of Food Adulteration Act 1954 and rules 1955 also it is not labeled in accordance with the requirements of section 2(ix) (k) of the PFA act 1954 and rule 36(7) (a) of the PFA rule 1955. The complaint was filed before Judicial Magistrate No.I, Pollachi on 25.8.2009 in C.C.No.191 of 2009 and notice under section 13(2) of the act was served on the petitioners/accused.

3.The learned counsel for the petitioners/accused further submit that by report dated 03.03.2010 , the Central Food Laboratory, Pune has come to the conclusion as follows:-

"I am of the opinion that, the above sample confirms to the stands of coffee as per PFA rules 1955 as per test performed."

4.The learned counsel for the petitioners/accused submits that the coffee powder concerned in this case was packed on Jan.2008. In respect of this packing and when one of the sample is sent, the central food Laboratory, Pune, has opined that the sample confirms to the stands of coffee as per PFA rules 1955 as per tests performed.

5.The learned counsel for the petitioners/accused submits that the result of the Central Food Laboratory will supersede all the results of public an analyst and it is to be accepted as correct result. Hence, it can be said that the food is not adulterated and the proceedings imitated against the petitioners/accused are liable to be quashed. Whatever as it may be, though the sample was taken on 30.01.2008, the case was filed only on 25.08.2009 long after 4 months of the manufacture of the product namely "best before declaration" This delay also can be taken into consideration for quashing of the proceedings. The food was packed on January 2008.

6.The learned counsel for the petitioners/accused submits

that the case is posted to 12.05.2001. Though the result of the Central Food Laboratory is in favour of the petitioners they had to face the trial and get the order of acquittal only after the examination of all witnesses etc since this being a summons case, there is no provision for discharge. Hence the petitioners/accused were before this Court under section 482 of Cr.P.C.

7.The learned Additional Public Prosecutor for the respondent opposed the prayer of the petitioner/accused.

8.I heard Mr.K.V.Sridharan, learned counsel for the petitioners and Mr.P.Govindarajan, learned Additional Public Prosecutor for the respondent and perused the entire materials available on record.

9.As a matter of fact, the report of the Central Laboratory, Pune dated 03.03.2010 confirms to the standards of coffee as per the prevention of food adulteration rules 1955.

10.It is also an admitted fact that, the central food laboratory results will supersede all the results of public analyst. The respondent have not denied the corrections of the report issued by the CFL, Pune.

11.In this case, the seizures effected against the retail shop of the petitioners/accused was taken on 30.1.2008. Ultimately, the case was filed by the respondent after 4 months from the date of manufacture of the samples shows that it is "best before declaration". Nothing would serve the purpose if the petitioner/accused were forced to face the trial.

12.Therefore, I am inclined to quash the final report filed in C.C.No.191 of 2009 on the file of the learned Judicial Magistrate No.I, Pollachi and this criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vs

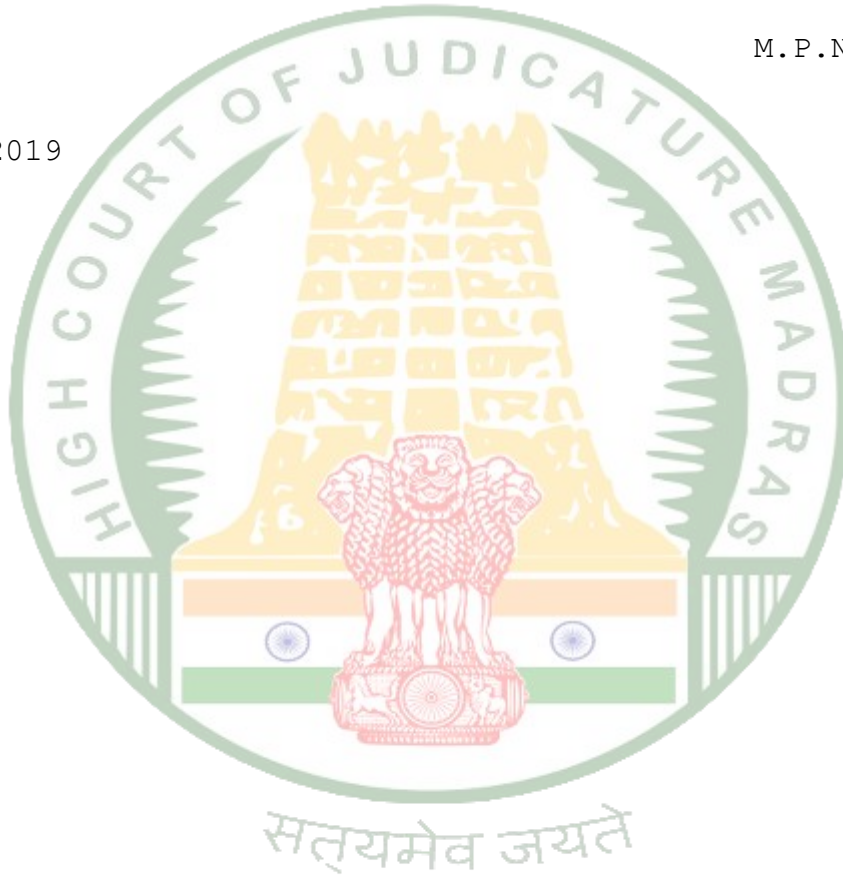
To

1. The Judicial Magistrate No.I, Pollachi.
2. The Food Inspector,
Tiruppur City Municipal Corporation,
Tiruppur - 638 604.

+lcc to Mr.K.V.Sridharan, Advocate, S.R.No.46082

CRL.O.P.No.9008 of 2011
and
M.P.No.1 of 2011

SS (CO)
CS/05/03/2019



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