



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2017

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Crl.O.P.(MD) No.10399 of 2017

and

Crl.M.P.(MD) Nos.7121 and 7122 of 2017

Mahesh

... Petitioner/ Accused No.1

-Vs-

The Food Safety Officer,
Ambasamuthiram Taluk,
Government Hospital Road,
Ambasamuthiram,
Tirunelveli District.

...Respondent /Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to C.C.No.348 of 2014 on the file of the learned Judicial Magistrate, Ambasamuthiram, Tirunelveli District and quash the same against the petitioner.

For Petitioner :Mr.S.Ramakrishnan

For Respondent :Mr.K.Anbarasan

Government Advocate (Crl.Side)

ORDER

This petition has been filed to quash the charge sheet in C.C.No.348 of 2014 on the file of the learned Judicial Magistrate, Ambasamuthiram, Tirunelveli District.

2.The case of the petitioner is that the respondent registered a case against the petitioner for the offences punishable under Sections 52, 53, 54, 59(1) and 63 r/w Sections 3(1)(zz)(v), 3(1)(zf)(A-i), 26(1), 26(2)(i)(ii)(iii)(v), 27(1), 27(2)(c), 27(3)(c) and 31(1) of Food Safety Standards Act 2006 and Quality (Packing and Labeling) Regulations 2011 Regulation 22 and Food Safety and Quality (Food Quality and Adulteration) Regulation 2011 Regulation 2.101-1 and for violation of Regulation 2.1.2(1) of Food and Adulteration Act.

3.The petitioner states that he is carrying on Tea business throughout the Tenkasi Taluk in the name and style of "M/s.Guru Iyamam Tea". The petitioner further states that he has been given license by the competent authority. It is the further case of the petitioner that on 13.11.2013, at about 05.30 p.m., when the petitioner was selling tea in an Omini van, the respondent



intercepted the petitioner as they if he is the authorized officer appointed by the Government to check food products including tea and forcibly obtained samples from different packets.

4. Learned counsel for the petitioner submitted that the petitioner informed the respondent that he purchases tea on whole sale basis from the other accused and that he is not responsible for any adulteration, but the petitioner has received summons from the Court below based on the impugned charge sheet filed by the respondent stating that the petitioner is also involved in the adulteration.

5. Sum and substance, the arguments of the learned counsel for the petitioner is that the petitioner is no way connected or responsible for food adulteration. The petitioner is selling the tea supplied by other accused in the market in the name and style of "M/s. Guru Imayam Tea". The petitioner also states that he has the license to do the business.

6. Further it is also the submission of the learned counsel for the petitioner that the sample was sent for examination to the laboratory at Kolkata, which is not authorized to do the analysis and the report is the basis for implicating the petitioner and others for the offences regarding adulteration.

7. The learned counsel for the petitioner has raised other issues which are factual and can be gone into only at the time of Trial. The contention of the petitioner is that he is in no way connected cannot be believed. First of all even according to the petitioner, he is doing packing by himself. Hence, he is responsible for the tea sold by him and also liable for selling adulterated food in his name. The further contention of the petitioner is that from the test results for iron filling found in tea is varied due to many reasons and that therefore, the test should be conducted at the tea factory. The said contention can be considered by the Court.

8. Considering the nature of the offences, even this Court is of the view that the petitioner's grievances at this stage is only based on factual issues and can only be decided at the time of trial with reference to the documents and materials produced by prosecution against the petitioner and other accused in this case. Hence, this Court has no other option but to dismiss this petition.

9. In the result, the Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-III)



To

1.The Food Safety Officer,
Ambasamuthiram Taluk,
Government Hospital Road,
Ambasamuthiram,
Tirunelveli District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.S.RAMAKRISHNAN, Advocate SR.No.71811

gsp/cmr

MAS/KP/SAR2:08.09.2017:3P-4C

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