

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53738 of 2013

Arising out of Complaint Case No.-81(M) Year-2006 - PATNA COMPLAINT CASE
District- Patna

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M/s Nestle India Ltd. represented through its authorized representative P.C. Das (Prabin Chandra Das), Son of Late U.C. Das, erstwhile Manager, Sales, who was appointed as the nominee of Nestle India Limited, Kolkata Branch, then 7 Hare Street, Kolkata 700001, now DLF IT Park, Tower-C, 12th Floor, 8 Major Arterial Road, Block- AF, New Town, Rajarhat, P.S. Roharhat Kolkata-700156.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Food Inspector, Munger, C/o Office of Civil Surgeon cum Chief Medical Officer, Munger.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate
		Mr. Jayanta Ray Chaudhury, Advocate
		Mr. Binay Kumar, Advocate
For the Opposite Party/s :		Mr. Awadhesh Kr. Singh (APP)

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 23-03-2018

Seeking quashment of a complaint case filed against the petitioner being Complaint Case No. 81(M) of 2006 vide order dated 27.06.2006 passed by the Sub Divisional Judicial Magistrate, Patna proposing to prosecute the applicant and its nominees under Section 16(1)(a) of the Prevention of Food Adulteration Act, 1954, this application has been filed under Section 482 Cr.P.C.

Admittedly, the only reason for prosecuting the applicant is that in the Maggi Tomato Sauce and the Nestle



Chotu Munch which was seized by the Food Inspector on 20.01.2006 the manufacturing date is not legible and this amounts to violation of the statutory rules formulated under the Food Adulteration Act, which is an offence and the prosecution has been launched.

Having heard learned counsel for the parties, it is seen that in the seizure-memo prepared under Rule 12 of the Prevention of Food Adulteration Rules, 1955 and Form VI thereto the particulars of the sample seized are indicated in the following manner:-

“(1) Maggi Tomato Sauce-200gx3.

Pack- Dec-05- Batch No. 535704511K

(2) Nestle Chotu Munch- 10 packetx3

MFD 01/2006, Batch No. 6009045466”

If in the seizure memo the manufacturing date and the packing date of the products are clearly indicated by the Food Inspector, namely, the competent statutory authority conducting the seizure, it is surprising that the applicants are being prosecuted on account of non-mentioning of the packing date and the manufacturing date in the product which is seized. The prosecution launched is totally without application of mind, without considering the material fact and this being a fit case



where power under Section 482 Cr.P.C. can be exercised, I am not inclined to relegate the petitioner to raise the objection before the trial court and seek their discharge when it is apparent from the face of the record that the prosecution is without application of mind and in fact the seizure-memo which forms the basis for the prosecution does not indicate constitution of any offence.

Accordingly, rejecting the objection of the respondent's counsel to say that this Court should not interfere and the petitioner should raise all these objections before the trial court, I allow this application, quash the proceedings in Complaint Case No. 81(M) of 2006 including the order dated 27.06.2006 passed by the Sub- Divisional Judicial Magistrate, Patna in the aforesaid complaint case.

(Rajendra Menon, CJ)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	29.03.2018
Transmission Date	

