

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.10640 of 2018
and Crl.M.P.Nos.5456 and 5457 of 2018

P.S.Mahapatra

.. Petitioner

Vs

S.Baskaran

The Food Safety Officer
Wallajahpet District
Vellore.

.. Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertaining to the proceedings pending on the file of the Judicial Magistrate No.II, Wallajahpet in STC No.208 of 2016 filed by the respondent herein and quash the same.

For Petitioner : Mr.G.Karthikeyan

For Respondent : Mr.Kritika Kamal, P.
Government Advocate (Crl.Side)

for Ms.J.Rajalakshmi
APP, Gr.II.

O R D E R

This petition has been filed to call for the records pertaining to the proceedings pending on the file of the Judicial Magistrate No.II, Wallajahpet in STC No.208 of 2016 filed by the respondent herein and quash the same.

2. On 24.06.2015, the Food Safety Officer inspected the shop of Thangaraj [A2] at 77/15 Main Road, Walajapet and lifted TATA Tea Chakra Gold samples in accordance with the Food Safety and Standards Act and sent the same to the State Food Analysis Laboratory, Guindy for analysis and report. The report of the Analyst showed that the sample was adulterated. After obtaining the Analyst Report, the officials sent a copy of the same to the TATA Global Beverages Limited, Tumkur Road, Bengaluru Rural District, Karnataka, on the premise that they had manufactured the product. The petitioner, who was the Chief Manager (Legal) of the TATA Global Beverages Limited opted for sending the sample to the Central Food Laboratory (Referral Laboratory) in Kolkata. The report received from the Central Food Laboratory confirmed the report of the State

Food Analysis Laboratory and therefore, a prosecution has been launched in STC No.208 of 2016 before the Judicial Magistrate No.II, Walajapet against the petitioner herein and Thangaraj, for quashing which, the petitioner is before this Court.

3. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the State.

4. Learned counsel for the petitioner submitted that the petitioner was working as the Chief Manager (Legal) in the TATA Global Beverages Limited and that he was neither the Managing Director or Director of the Company. He further submitted that on his advice as Chief Manager (Legal,) the second sample was sent to the Referral Laboratory for analysis and therefore, he cannot be mulcted with criminal liability.

5. Today Mr.S.Baskaran, the Food Safety Officer is present.

6. The prosecution fairly admitted that Mahapatra, the petitioner herein, was working as Chief Manager (Legal) in TATA Global Beverages Limited and that he is not a person who has been nominated by the Company in terms of Section 66 of the Food Safety and Standards Act by the State authorities.

7. Learned Government Advocate (Crl.Side) submitted that the authorities sent a communication to TATA Global Beverages Limited asking them to disclose the person who was nominated by them and since there was no response from the Company, the prosecution has been launched against the Company, making the petitioner to represent the Company.

8. In the opinion of this Court, for the offence committed by the Company, the petitioner who was working as the Chief Manager (Legal) cannot be personally prosecuted. However, on a reading of the complaint, the cause title shows the name of the petitioner and his designation has been shown as Chief Manager, TATA Global Beverages Limited. This should be construed as the prosecution of the Company and not the prosecution of Mahapatra in his individual capacity. The complaint has been written in Tamil, where the construction of expression differs. For example, in English, a person will be referred to as "X, son of "Y", but in Tamil, it will be referred to as "Y's son is X".

9. Therefore, this Court holds that the prosecution in this case is not against Mahapatra in his individual capacity and therefore, he cannot be either sentenced to imprisonment or made to pay fine personally. It must be construed that he is representing TATA Global Beverages Limited. If he resigns from the Company, it is open to TATA Global Beverages Limited to appoint any other representative under Section 305 Cr.P.C.

It is still open to TATA Global Beverages Limited to designate any other person to represent the Company in the place of Mahapatra under Section 305 Cr.P.C. before the trial Court.

With the above observation, this petition is closed.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

To

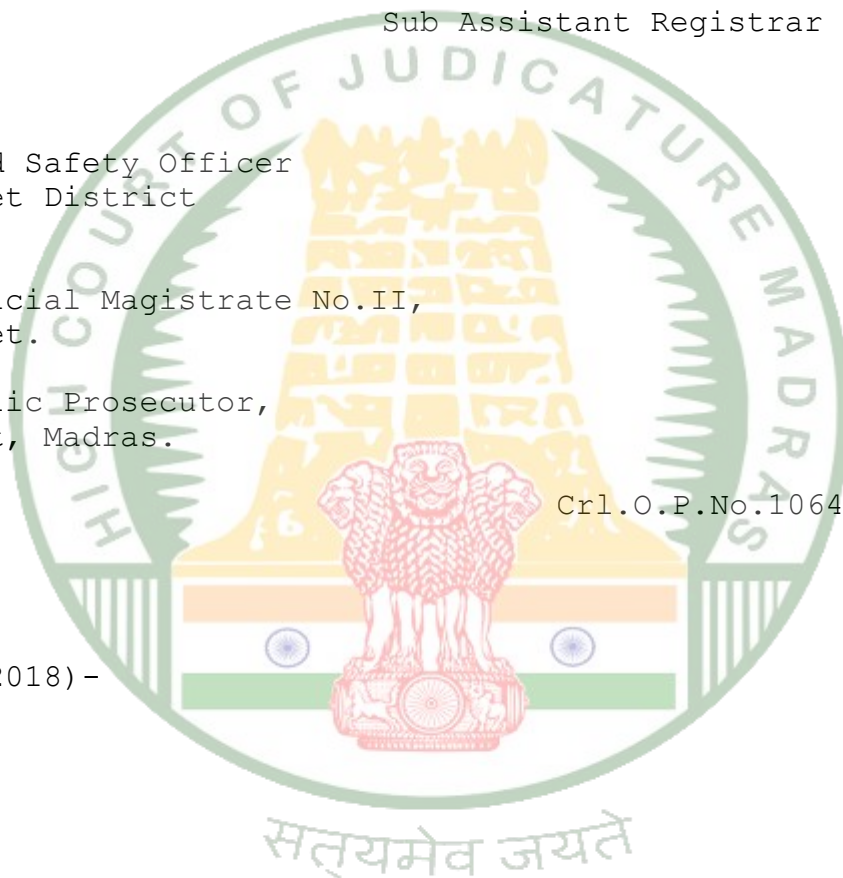
1.The Food Safety Officer
Wallajahpet District
Vellore.

2.The Judicial Magistrate No.II,
Wallajahpet.

3.The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.10640 of 2018

(CS-DR)
EU (29/06/2018) -



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