



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2018

CORAM :

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

CRL.O.P.(MD)No.6557 of 2011 and

M.P.(MD)No.2 of 2011

WEB COPY

1. S.Ayyappan

2. Fr.B.Russelraj,
Executive Director,
KIDDS, Mulagumoodu,
Kanyakumari District.

3. Fr.B.Russelraj,
Represented for
M/s.Nanjil Milk Plant,
Executive Director,
KIDDS, Mulagumoodu,
Kanyakumari District.

... Petitioners/Accused 1 to 3

Vs.

The Food Inspector,
Suchindram Town Panchayat,
Government Primary Health Centre,
Kurunthancode Panchayat Union, Muttom,
Kanyakumari District.

... Respondent/Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the complaint in C.C.No.73 of 2009 on the file of the learned Judicial Magistrate, Eraniel and quash the same.

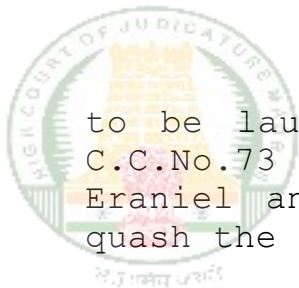
*(Amended as per the order made in
M.P.(MD)No.4 of 2011 dated 23.11.2011)*

For Petitioners : Mr.C.R.Nimal
For Respondent : Mr.A.Robinson,
Government Advocate(Crl. Side).

ORDER

The petitioners have filed this Criminal Original petition for quashing C.C.No.73 of 2009 on the file of the learned Judicial Magistrate, Eraniel.

2. It is a private complaint filed under the provisions of Tamil Nadu Prevention of Food Adulteration Act, 1954. The food seized and analysed in this case is Milk. The seizure was done on 22.07.2008. It was sent for analysis on 22.07.2008. The report of the analyst was received on 26.08.2008. The prosecution came



to be launched on 18.03.2009. The same was taken on file in C.C.No.73 of 2009 on the file of the learned Judicial Magistrate, Eraniel and summons were issued to the petitioners herein. To quash the same, this Criminal Original petition has been filed.

3. The learned counsel for the petitioners pointed out that at no point of time, report under Section 13(2) of the Act was served on the petitioners. Since in this case, the articles in question is Milk the gross delay that has occasioned in this case, has resulted in violation of the valuable right for sending the sample for second analysis. This Court in more than one decision held that if this valuable right is infringed, the impugned proceedings are liable to be quashed. Therefore, this Court has no hesitation to quash the proceedings in C.C.No.73 of 2009 on the file of the learned Judicial Magistrate, Eraniel.

4. The impugned proceedings in C.C.No.73 of 2009 on the file of the learned Judicial Magistrate, Eraniel, stand quashed. The Criminal Original petition is allowed, accordingly. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Judicial Magistrate,
Eraniel.
2. The Food Inspector,
Suchindram Town Panchayat,
Government Primary Health Centre,
Kurunthancode Panchayat Union, Muttom,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.C.R.NIMAL, Advocate SR.No.74039

Pmu

MK/KAK/SAR 2/07.08.2018/2P/5C

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