

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

201

CRM-M-18473-2015

Date of decision : 14.12.2018

M/s Champa Devi Foods Pvt. Ltd.

.... Petitioner

V/s

State of Punjab

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr.G.S.Sawhney, Advocate
for the petitioner.

Mr. Amandeep S.Gill, DAG, Punjab.

Ramendra Jain, J. (Oral)

Through this petition under Section 482 Cr.P.C., the petitioner has sought quashing of complaint No.240 dated 09.08.2010 (Annexure P/3), summoning/zimni order dated 11.06.2014 (Annexure P-4 Colly) and order dated 19.2.2015, for issuance of non-bailable warrants against the petitioner.

In nutshell, on 09.10.2009, Food Inspector, Gurdaspur collected sample of "Murli Agmark Desi Ghee" from the shop of one Swaran Singh and sent the same to Public Analyst, Punjab for analysis, who vide report (Annexure P/2) dated 17.10.2009 declared the sample 'Adulterated'.

Consequently, on 09.08.2010 Food Inspector, Gurdaspur filed complaint under Sections 16(1) (a) (i) of a Prevention of Food Adulteration Act, 1954 (in short- 'the Act'), Annexure P/3 in the Court of Chief Judicial Magistrate, Gurdaspur, who on the same day, passed order (Annexure P-2) for summoning Sawarn Singh for contravening the aforesaid provisions of

the Act, whereas the petitioner was summoned vide order dated 11.6.2014. When the presence of Mukesh Mittal authorized representative of the petitioner could not be secured, he was ordered to be summoned through non-bailable warrants vide order dated 19.7.2015 (Annexure P/4).

Learned counsel for the petitioner contends that according to print on the container from which the alleged sample was taken by the Food Inspector, Desi Ghee could be used within 09 months from the date of manufacturing. As per report of the analyst (Annexure P/3), the date of manufacturing on the label of the container was March, 2009. Therefore, the alleged Desi Ghee, of which sample was collected by the complainant could be used before December, 2009 or at the most up to 31st December, 2009 (Annexure P/3). The trial Court failed to appreciate that the complaint was not maintainable being filed beyond the period of expiry of ghee, depriving the petitioner of his legal right for re-analysis of the sample allegedly collected by the complainant.

On the other hand, learned State counsel vehemently opposed the submissions made by learned counsel for the petitioner.

Having given thoughtful consideration to the rival submissions, this petition merits acceptance for the reasons to follow:-

- (i) Under Prevention of Food Adulteration Act, 1954, legal right has been given to a person for re-analysis of a sample, in case if he is not satisfied with the analyst report. Undisputedly, in the instant case, complaint (Annexure P-3) was filed on 09.08.2010, beyond the expiry date of ghee of which sample was collected by the complainant, which expired in December, 2009, snatching the rights of the petitioner for re-analysis of the sample.

In view of the above observations, this petition is allowed and the complaint No.240 dated 09.08.2010 (Annexure P/3), summoning order dated 11.06.2014 (Annexure P-4 copy) and order dated 19.2.2015, whereby trial court issued non-bailable warrants against the petitioner, are quashed.

December 14, 2018
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No
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