

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 01.11.2018
Pronounced on : 10.01.2019

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.10410 of 2011
and
Crl.M.P.No.1 of 2011

1.T.Senthilvel,
S/o.Thangasamy.

2.K.Sundarrajan,
F/o.Krishnaswami.

3.TAV Products (P) Ltd.,
No.27, Selva Vinayagar Koil Street,
Tondiarpet, Chennai-81,
And represented by
Mr.K.Sundarrajan,
Marketing Director. Petitioners/Accused

Vs.

State Rep. by,
The Food Inspector,
Zone VIII,
Corporation of Chennai,
Chennai.Respondent/Complainant

PRAYER: Criminal Original Petition is filed under
Section 482 of the Code of Criminal Procedure, to call
for the records in S.M.M.F.No.9 of 2011 pending on the
file of the XX Metropolitan Magistrate Court, Chennai and
quash the same.

For Petitioners : M/s.Dr.G.Krishnamurthy
For Respondent : Mrs.V.Saratha Devi
Government Advocate [Crl. Side]

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O R D E R

The petitioners have filed a Quash Petition to quash
the S.M.M.F No.9 of 2011, pending on the file of the XX
Metropolitan Magistrate Court, Chennai for the offences
under Sections 7(ii) r/w 2(ix)(k), Section 16(i)(a)(i)
r/w Rule 32(b)(z)(v) of the Prevention of the Food
Adulteration Act.

2.The gist of the case is that, on 26.02.2010, the respondent/Food Inspector had inspected M/s.Sivamurugan Provision Stores at T.Nagar, Chennai and drew a sample of Popular Appalam 15 packets of 100 grams by paying for the same and sealed it in a proper manner and thereafter sent the same for Public Analysis on 26.02.2010 and received the report after 29.03.2010 and thereafter collected the particulars regarding the petitioners on 03.05.2010.

3.The 1st petitioner is the Proprietor of Sivamurugan Stores, the 2nd petitioner is the Marketing Director of M/s.TAV Products Private Limited and the 3rd petitioner is the M/s.TAV Products Private Limited, manufacturer of the products (Popular Appalam).

4.The report of the Public Analyst was received by the respondent on 29.03.2010, in the meantime, a letter was sent to the manufacturer of the 3rd petitioner on 01.03.2010 seeking details of the Manufacturer Company. For the same, the 3rd petitioner sent a reply dated 26.04.2010. On 26.07.2010, the respondent sent a request to the Joint Director [PFA] seeking permission for sanction order for prosecution was obtained on 21.01.2011. Based on the sanction the prosecution was launched against the petitioner, against which this Criminal Original Petition has been filed.

5.The contention of the learned counsel for the petitioners is that, there is no specific allegation or averments as against any of the petitioner imputing any specific overt act as against them, other than the bald allegations. He further submitted that, on perusal of the label would no mislead in original genuine purchasers and that the version in the complaint that the label would be misleading which amounts to misbranding is not correct. Further, the defense alleged on the part of the petitioners is only a lapse, which is curable. The petitioner undertakes to ensure that such lapses do not occur in future.

6.The learned counsel for the petitioners vehemently argued that, the complaint filed by the respondent is in the nature of cases instituted otherwise than on Police report. Hence, the complaint should contain all the necessary particulars, averments and over tact against the accused therein and the only concession to the

respondent being a Public servant is that the Public servant need not be examined, if he acts in discharge of his official duties and files the complaint.

7.The learned Government Advocate [Criminal Side] for the respondent had filed a counter detailing the investigation carried out by him, taking of samples, forwarding them to Public Analyst, receipt of analysis report, sending of forms and notice to the petitioners as per the Act and Rules and after obtaining the sanction for prosecution, filing of the complaint. Further submitted that all the statutory compliance as per the Act and Rules have been followed before filing the complaint and prayed that the quash petition to be dismissed.

8.Further submitted that, it is a categorical finding of the Public Analyst as it could be seen from the report No.0686/2009-2010, dated 29.03.2010, wherein the Public Analyst had opined that the sample is found to be mis-branded. Since, it is not a brand in accordance with the requirements of Rules 32 (b)(z)(v) Rules of Prevention of Food Adulteration Act, 1954 and Rules 1955, which should be read as 32(b) Rules of Prevention of Food Adulteration Act 1954 and Rules 1955.

9.Considering the rival submissions and on perusal of the complaint and the materials, it is found that this Court feels that the contention of the petitioner does not merit consideration.

10.In view of the above, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS iv)

//True Copy//

Sub Assistant Registrar

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To

1.The XX Metropolitan Magistrate ,Ripon Buildings
Chennai.600 003.

2.The Food Inspector,
Zone VIII,
Corporation of Chennai,
Chennai.

3.The Public Prosecutor,
High Court, Madras.

CrI.O.P.No.10410 of 2011

A.SK(06/03/2019)



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