



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL.O.P.(MD)No.2084 of 2015 and

M.P.(MD)No.1 of 2015

WEB COPY

D.Krishnamoorthy

... Petitioner/4th Accused

Vs.

1. Food Safety Officer-II,
Southern Railway, Chennai Central,
Chennai - 600 003. ... 1st Respondent/Complainant
2. V.Durai Meeran ... 2nd Respondent/1st Accused
3. P.Uthrapathy ... 3rd Respondent/2nd Accused
4. S.Sethuraman ... 4th Respondent/3rd Accused

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C., to quash S.T.C.No.862 of 2014 pending on the file of the Judicial Magistrate No.I, Virudhunagar and quash the same with regard to the petitioner which is filed under Sections 52 and 59(ii) of Food Safety and Standards Act 2006.

For Petitioner

: Mr.M.Kamalanathan

For R-1

: Mr.S.Manohar

ORDER

The petitioner herein is facing prosecution in S.T.C.No.862 of 2014 on the file of the Judicial Magistrate No.I, Virudhunagar. To quash the same, this Criminal Original petition has been filed by the petitioner/fourth accused.

2. The foremost contention urged by the learned counsel appearing for the petitioner is that the impugned prosecution is clearly barred in view of Section 77 of the Food Safety and Standards Act 2006. Section 77 of the said Act reads as follows:-

"77. Time limit for prosecutions - Notwithstanding anything contained in this Act, no Court shall take cognizance of an offence under this Act after the expiry of the period of one year from the date of commission of an offence:



Provided that the Commissioner of Food Safety may, for reasons to be recorded in writing, approve prosecution within an extended period of up to three years."

3. In this case, the occurrence had taken place on 19.01.2013. But then, the complaint itself came to be filed only on 17.03.2014. It is clearly after the expiry of the period of one year from the date of commission of offence in question.

4. It is true that as contended by the learned counsel appearing for the first respondent that the Commissioner of Food Safety may, for reasons to be recorded in writing, approve prosecution within an extended period of up to three years. In this case, the go-ahead for prosecution was issued for the commission of offence under the Food Safety and Standards Act within one year itself. Therefore, invoking Section 77 of the Food Safety and Standards Act 2006 will not arise in this case.

5. Since taking on file of the complaint in question, runs counter to the express statute bar set out in Section 77 of the Food Safety and Standards Act 2006, I am inclined to quash the impugned proceedings. The Criminal Original petition stands allowed. The benefit of this order will enure in favour of the non-petitioners/other accused also. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar(CS)

pmu

To

1. The Judicial Magistrate No.I, Virudhunagar.
2. The Food Safety Officer-II, Southern Railway, Chennai Central, Chennai - 600 003.
3. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M.KAMALANATHAN, Advocate SR-89641.

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