

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.774 of 2020 and

Crl.MP.Nos.447 & 449 of 2020

G.Irudhayanathan ... Petitioner

Vs.

B.Ramakrishnan ... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., praying to call for records in C.C.No.177 of 2016 on the file of the learned Judicial Magistrate-I, Kancheepuram and quash the same against the petitioner.

For Petitioner : Mr.M.Babu Muthu Meeran

For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor

O R D E R

This criminal original petition has been filed to quash the proceedings in C.C.No.177 of 2016 on the file of the learned Judicial Magistrate-I, Kancheepuram having been taken cognizance for the offences under Sections 52 and 59(i) of the Food Safety and Standards Act, 2006 .

2. The learned counsel for the petitioner would submit that the respondent did not follow the mandatory requirement under Food Safety and Standards Act, 2006 before lodgement of the complaint as against the petitioner herein. Section 77 of Food Safety and Standards Act speaks about the limitation for prosecution and accordingly the limitation to initiate prosecution is one year from the date of commission of offence. The present impugned complaint has been lodged after period of 2 years since the alleged offence was committed on 31.07.2014 and the complaint was lodged only on 04.10.2016. There is absolutely no explanation for the delay and as such the complaint is directly hit under Section 77 of Food Safety and Standards Act.

2.1 He further submitted that under Section 42 of the said Act, certain procedures have to be followed for launching the prosecution. Accordingly, the Food Safety Officer after scrutiny of the analysis report, he shall have to send his recommendations within 14 days from the date of analysis report to the Commissioner for sanctioning of prosecution. In the present case, the Food Laboratory report was received by the respondent on 18.02.2015. After receipt of the report, the Designated Officer, Kancheepuram District by his order dated 18.08.2015, asked for sanction to prosecute the petitioner herein. On receipt of the communication from the Designated Officer, the sanction authority accorded sanction on 14.03.2016. Thereafter, on 28.09.2016, the same authority accorded second sanction to prosecute the petitioner herein. Therefore, beyond the period of 14 days from the date of receipt of analysis report, the Designating Officer requested the Commissioner for sanction to prosecute the petitioner. Therefore, the entire complaint is vitiated and directly hit under Sections 42 and 77 of the said Act. Therefore, he sought for quashment of the entire proceedings.

3. The learned Additional Public Prosecutor submitted that the respondent inspected the first accused shop on 31.07.2014 and purchased Rich Roses Sherbet - Herbal Granules (Traditional Indian Item) and the samples of the said product was sent for analysis to the Referral Food Laboratory. According to the said report, the sample has not confirmed due to the presence of caffeine in the said product. It is also not declared on the label, and thereby the said sample is unsafe and misbranded. After accorded sanction, the respondent filed complaint on 04.10.2016 before the learned Judicial Magistrate-I, Kancheepuram. Therefore, all the mandatory provisions are duly followed by the respondent and lodged the complaint as against the petitioner and two others. Further he further submitted that all the points raised by the petitioner herein cannot be considered under Section 482 of Cr.P.C. since all are mixed question of facts and it can be considered only before the trial court during the trial. Therefore, he sought for dismissal of the quash petition.

4. Heard, Mr.M.Babu Muthu Meeran, the learned counsel for the petitioner, and Mr.S.Karthikeyan, Additional Public Prosecutor appearing for the respondent.

5. There are totally three accused, in which the petitioner is arrayed as A2. According to the respondent, they visited the shop of the first accused on 31.07.2014 and purchased Rich Roses Sherbet - Herbal Granules (Traditional Indian Item). Thereafter, sent the sample of the said product

Officer / respondent sent his recommendation for according sanction only on 18.08.2015. On receipt of the same, the Commissioner of Food Safety accorded first sanction on 14.03.2016 and subsequently accorded second sanction on 28.09.2016. Therefore, the respondent failed to send his recommendation within period of 14 days from the date of receipt of food analysis report. Therefore, the respondent did not follow the mandatory provision as contemplated under Section 42(3) of the Food Safety and Standards Act.

8. Therefore, the present complaint cannot be sustained as against the petitioner and it is liable to be quashed. Under these circumstances, the petitioner need not go for ordeal of the trial since the entire complaint is nothing but clear abuse of process of law.

9. In view of the above discussion, this Criminal Original Petition is allowed and the proceedings in C.C.No.177 of 2016 on the file of the learned Judicial Magistrate-I, Kancheepuram is quashed as against the petitioner. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

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To

The learned Judicial Magistrate-I,
Kancheepuram

Cr1.O.P.No.774 of 2020

CP(CO)
GMY(21/09/2020)

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