



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2021

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Crl.O.P.No.11331 of 2015

and

M.P.No.1 of 2015

1.Batcha

2.Nalla Mohamed

... Petitioners/Accused 1 & 2

Vs.

State of Tamil Nadu rep. by its

Deputy Inspector of Labour/

Assistant Controller of Legal Metrology

3rd Circle, Chennai-79.

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to quash the complaint in C.C.No.3197 of 2014 on the file of the Hon'ble Metropolitan Magistrate, No.16, George Town, Chennai.

For Petitioners: Mr.A.Sirajudeen

For Respondent : Mr.E.Raj Thilak

Counsel for Government (Crl.side)

ORDER

This Criminal Original Petition has been filed seeking to quash the complaint in C.C.No.3197 of 2014 on the file of the Hon'ble Metropolitan Magistrate, No.16, George Town, Chennai.

2.The petitioners are partners in a trading concern viz., 'Kalanjiam Company', which sells fancy sanitary articles like crystal bathroom materials in which toilet items like tooth paste, and tooth brush are kept. They are only fancy items and are made of high quality crystal and sold only after it is inspected by the customers. After satisfaction about the colour, design and size the customers purchase the same. For the purpose of avoiding scratch and dust, each article is put in a kutcha box. They are kept in a rack, since the articles are different in size and could not be kept without the risk of falling. Each box would have only one item and there is no standard regarding size, measurement or weight and they are not sold by quantity, colour or weight but only in pieces and the box is removed and thrown out when it is sold and packed in a waste newspaper. In these circumstances, the respondent had conducted inspection of the petitioner's shop on



25.02.2014 and seized two numbers of the sanitary ware. Further, the respondent prosecuted the petitioners by stating that the materials were kept in a pack and the pack did not contain the necessary details.

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3. The learned counsel for the petitioners would submit that the provisions of Section 18 and 36 of the Legal Metrology Act, 2009 would not get automatically attracted simply because the article was put in a box. Only when the article is packed for its sale in measurement, and the consumers' decisions depend upon the number, weight or measurement of the article inside the pack and any MRP is also fixed, the requirements of the Act are attracted. Otherwise, when the carton is put only for the convenience or comfort of the seller and not for facilitating the sale or to influence the thinking of the buyer in taking purchase decision, the necessary details are to be printed on the purchaser carton. Further, the alleged offence was committed on 25.02.2014 and the complaint was filed in the Court on 16.10.2014, which is eight months from the date of commission of the offence and cognizance was taken thereafter by the trial Court. For the offence charged, the punishment imposable is fine only since, the petitioners have not been prosecuted earlier for the same or similar offence.

4. The learned Counsel for the Government (Crl.side) would submit that the inspection was done on 25.02.2014 and after completion of investigation, charge sheet was filed before the trial Court and the same has been taken cognizance in C.C.No.3197 of 2014.

5. In view of the above said submissions made by the learned counsel for the either side, it is found that when cognizance of the offence after expiry of six months from the date of commission of the offence is not valid and on this ground the complaint is liable to be struck off.

6. Accordingly, the complaint in C.C.No.3197 of 2014 pending before the 16th Metropolitan Magistrate, George Town, Chennai, is hereby quashed.

7. Hence, the Criminal Original Petition stands allowed. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Metropolitan Magistrate XVI,
George Town, Chennai.

2. Do Thro The Chief Metropolitan Magistrate,
Egmore, Chennai-8.

3. The Deputy Inspector of Labour/
Assistant Controller of Legal Metrology
3rd Circle, Chennai-79.

4. The Public Prosecutor,
High Court of Madras,
Chennai.

Crl.O.P.No.11331 of 2015
and M.P.No.1 of 2015

GSM(CO)
GN(16/08/2021)