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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2021

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.O.P.Nos.2987, 4651, 4652 & 3512 of 2018
and
Crl.M.P.Nos.1231, 1232, 2273, 2274, 2275,
2276, 1559 & 1560 of 2018

1. M/s Raja Sago & Starch Suppliers
(Packers and Marketers)
Rep by is Proprietor R.Raja
S/o Rajamannar,
No.37/2, Siddco Women Industrial Estate,
Karuppur Post, Omalur Block,
Salem District - 636 012.
2. R.Raja
3. C.R.Magendiran
S/o S.Raju (Manager)
No.37/2 Siddco Women Industrial Estate,
Karuppur Post,
Omalur Block,
Salem District - 6363 012.
...Petitioners in Crl.O.P.No.2987 of 2018
1. M/s Sri Venkatachalapathy Rice & Sago Factory
Rep by its Proprietor Mrs. K.Susila
W/o Kaliaperumal,
Thandavarayapuram Post,
Athur, Salaem - 636 108.
2. Mrs.K.Susila ...Petitioners in Crl.O.P.No.4651 of 2018
1. M/s Rajalakshmi Finance
Rep by its Partner Mr.A.Venkataraman
2. Mr.A.Venkataraman ...Petitioners in Crl.O.P.No.4652 of 2018
1. M/s Rajalakshmi Finance,
Rep. By its Partner Mr.A.Venkataraman
2. Mr.A.Venkataraman ...Petitioners in Crl.O.P.No.3512 of 2018

Vs.





COMMON ORDER

These Criminal Original Petitions have been filed to call for the records in S.T.C Nos.1644, 1645, 1667 of 2017 pending before the Judicial Magistrate No.II, Salem, and quash the same.

2. The case of the petitioners is that the petitioners Company are genuine traders and doing sago business by investing huge amounts and working for the wholesaler / commission as an agent. The respondents 2 and 3 caused random checking of the godown of the petitioner companies on the basis of adulteration complaint, on 27.12.2014 and lifted samples and sent to the Salem Lab for testing the same on 29.12.2014. The alleged sago has been purchased from the Salem Sago Serve on 17.12.2014. After the auction purchase, the petitioner companies used to sell it to the consumer under its brand name called "'Taaja Premium and Natural Sago". The Salem Lab Analyst after analyzing the sago, sent his report on 09.01.2015, in favour of the petitioners. However, the 2nd respondent, inspite of receiving report, favouring the petitioners, had purposely sent the samples to the Referral Laboratory, Calcutta, for harassing the petitioners. The Referral Lab, on 27.03.2015, sent its first negative report against the petitioner. Under the Food Safety and Standard Rules, only two tests are required to be conducted in dry condition of samples and in insoluble condition. However, the 2nd respondent herein requested the Lab to conduct more than 10 tests which is against the provisions of the Food Safety and Standard Act and Rules. Therefore, it is the claim of the petitioners that the test conducted by the Referral Lab is non-est in law. Therefore, the filing of the present complaint against the petitioners is not maintainable and the complaints are liable to be quashed.

3. The learned counsel appearing for the petitioners made a submission that the petitioners are having five test reports, in their favour and there is no variance in the report as to the confirmity of standards as prescribed under the Act and Rules and further the report of the Food Analyst, Salem, is also in favour of the petitioners. Such being the case, the Designated Officer, without applying her mind, has filed this complaint. Further it is submitted by the learned counsel appearing for the petitioners that the goods of the petitioners have been kept on hold till date and as of now no release orders have been passed and the entire business of the petitioners has come to a standstill, thereby the petitioners have been put to irreparable loss and great hardship. Since the alleged sago is placed in open to air and water, now it can be used only for industrial purpose. Further the samples lifted would have lost its nature/shelf life, when it was produced to the laboratories



for testing. Therefore, the complaint lodged against the petitioners stating that the sample is not confirming to the standards under the Food Safety and Standards Regulations, is unsustainable and hence prays for quashment of the complaint.

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4. Per contra, learned Government Advocate (Crl. Side) appearing for the respondents submitted that the sample was lifted by the 2nd respondent by following the due procedures contemplated under the Food Safety and Standard Act and the Rules framed thereunder and the same was sent for analysis. Initially the report of the Food Analyst, Salem, was in the favour of the petitioner. Once again, in order to test the sample, it was sent to the Referral Lab, Kolkatta, wherein the Analysis Report of the Kolkatta Referral Lab was against the petitioner and the same revealed that the sample was not of standard quality as defined under the Food Safety and Standards Act. Therefore, as contemplated under the said Act, the Designated Officer has written a letter to the Commissioner of Food Safety, Chennai for launching prosecution against the petitioners. After considering the reports and materials available before the Commissioner, he ordered for prosecution and in the process of prosecution, summons were issued to the petitioners. The petitioners, without cooperating with the investigation process, has straight away approached this Court to quash the complaint. If at all the petitioners have any grievance, they may put forth the same before the Trial Court by facing trial, where the case is pending. Accordingly, he prays for dismissal of the present petitions.

5. Heard the learned counsel appearing for the petitioners as well as the learned Government Advocate (Crl.Side) appearing for the respondents.

6. Though various grounds have been raised by the petitioners, those points have to be canvassed by the petitioner at the time of trial and this Court, sitting under Section 482 Cr.P.C., cannot go into the merits of the case. The grounds raised by the petitioner are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. Therefore, this Court is not inclined to interfere with the proceedings pending before the Court below.

7. It is represented by the learned counsel appearing for the petitioners that this Court may issue a direction to the Trial Court to expedite the trial and complete the same as early as possible. He further submits that the appearance of the petitioners before the Trial Court may be dispensed with.



8. Accordingly, these petitions are disposed of with a direction, to the trial court to dispose of C.C. Nos.1645, 1667 and 1644 of 2017 as expeditiously as possible as per seniority of the case. It is left open to the petitioners to raise all the grounds before the trial Court and the same shall be considered on its own merits and in accordance with law. The petitioners and prosecution are directed to co-operate with the trial court for the early completion of trial. Further, taking into consideration the request as made by the learned counsel for the petitioners, their appearance before the trial court is dispensed with except for their appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioners is necessary, the trial court, at its wisdom, shall direct their appearance on those days. Consequently, connected miscellaneous petitions, if any, are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Food Safety,
Office of the Commissioner of Food Safety,
5th Floor, DMS Building,
Teynampet,
Chennai - 6.
2. The Designated Officer,
District Food Safety Office,
Salem - 636 001.
3. The Food Safety Officer,
Omalur,
Salem District - 636 001.
4. The Managing Director,
Sago Serve,
Jagirammpalayam,
Omalur Main Road,
Salem- 636 302.



5. The Judicial Magistrate No.II,
Salem.

6. -do through- The Chief Judicial Magistrate,
Salem.

7. The Public Prosecutor,
High Court, Madras.

+4ccs to M/s.C.Kanagaraj, Advocate, Sr.40946,40947,40948,40949

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NSK 11/10/2021