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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRL. O.P. NO. 11495 OF 2017

AND

CRL.M.P.NO.7562 OF 2017

1.M/s.Sabu Trade Private Limited,
Rep by its Director Vikash Sabu

2.Gopal Sabu

3.Kaushalya Devi Sabu

4.Vishal Sabu

...Petitioners

Versus

1.The State of Tamilnadu,
Rep by its Secretary,
Department of Health and Family Welfare,
Secretariat, Chennai.

2.The Commissioner of Food Safety,
Office of the Commissioner of Food Safety,
5th Floor, DMS Building,
Teynampet, Chennai-6.

3.The Designated Officer,
District Food Safety Office,
Salem-636001.

4.The Food Safety Officer,
Sooramangalam Zone-1,
Salem District 636001.

5.The Managing Director,
Sago Serve,
Jagirammpalayam,
Omalur Main Road,
Salem-636 302.

...Respondents

PRAYER : Criminal Original Petition filed under Section 482
Cr.P.C., to quash the 1st respondent Order R.No.1643/2014/S6/FSSA



dated 17.02.2017 in STC.No.201 of 2016 pending on the file of the Hon'ble Judicial Magistrate No.III, Salem.

For Petitioners : Mr.C.Kanagaraj
For R1 to R4 : Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)
For R5 : Notice Sent Service Awaited.

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ORDER

This Criminal Original Petition has been filed to quash the order of the 2nd respondent, dated 17.02.2017, in relation to S.T.C.No.201 of 2016 pending on the file of the Judicial Magistrate No.III, Salem, mainly on the ground that samples have not been taken and prosecution has been launched beyond the period of limitation.

2.It is the second round of litigation. On an earlier occasion. this Court, by order in Crl.O.P.No.24678 of 2016, dated 17.11.2016, has remanded the matter to the Commissioner of Food Safety to give reasons for sanction and pass orders in accordance with Section 77 of Food Safety and Standards Act, 2006. Now, the Commissioner of Food Safety, has passed an order, dated 17.02.2017, giving the reasons for sanction and for condonation of delay. Again, this Criminal Original Petition has been filed by the petitioners to quash the order passed by the Commissioner, mainly on the ground that, samples have not been taken as per law.

3.The Court was already not inclined to quash the proceedings and remanded the matter to set right the mistake committed by the officers. Now, again, by way of other ground, the quashment cannot be sought indirectly. In such view of the matter, this Court is of the view that the petitioner shall raise all his legal grounds before the trial Court and the trial Court shall decide the case expeditiously and dispose the matter without any further delay, considering the legal pleas and also shall decide the issues on its own merits.

4.Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

5.At this stage, the learned counsel appearing for the petitioners seeks indulgence of this Court to grant an order dispensing with the personal appearance of the petitioners. Accordingly, the personal appearance of the petitioners before the trial Court is dispensed with, except for receipt of copies, answering the charges, questioning under Section 313 Cr.P.C.,



passing of judgment, or on any other date as may be required by the trial Court.

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Sd/-
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

psa/mkn

To

- 1.The Judicial Magistrate No.III,
Salem.
- 2.The Secretary,
Department of Health and Family Welfare,
Secretariat, Chennai.
- 3.The Commissioner of Food Safety,
Office of the Commissioner of Food Safety,
5th Floor, DMS Building,
Teynampet, Chennai-6.
- 4.The Designated Officer,
District Food Safety Office,
Salem-636001.
- 5.The Food Safety Officer,
Sooramangalam Zone-1,
Salem District 636001.
- 6.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.C.Kanagaraj, Advocate SR.No.61796

Cr1.O.P.No.11495 of 2017

RSV(CO)
RVM(08/12/2021)