



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.22789 OF 2017

AND

CRL.M.P.NOS.13289 & 13290 OF 2017

S.Selvaraj

... Petitioner

Vs.

State represented by its
Food Inspector
Kabilar Malai Union Office,
Namakkal District.

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in S.T.C.No.1851 of 2016 on the file of the Judicial Magistrate, Paramathi, Namakkal and quash the same.

For Petitioner : Mr.R.Karthikeyan

For Respondent : Mr.R.Kishore Kumar
Government Advocate (Crl. Side)

O R D E R

This Criminal Original Petition has been filed to quash the complaint in S.T.C.No.1851 of 2016 on the file of the Judicial Magistrate, Paramathi, Namakkal.

2.The case of the prosecution is that the 1st accused is the vendor and the petitioner/3rd accused is the owner of one Kamadenu Jaggery Mandi in Pillikkalpalayam, Namakkal and the 2nd accused is the manufacturer of the jaggery, which sample was lifted by the respondent/complainant. As per the complaint, the jaggery lifted on 12.08.2015 from the 1st accused was found to be



"unsafe", as the same contained Sulfur-Di-Oxide beyond permissible levels, which was in violation of Section 3, Sub Section (1) (a), Clause (zz) Sub Clause (iii) & (xii) and Section 26, Sub Section (1) & (2) (i) & (v) of Food Safety and Standards Act, 2006 ("the Act" for brevity). Hence, a complaint was launched by the respondent as against the accused.

3.The learned counsel for the petitioner mainly contended that there is a delay in lodging the complaint, as Section 77 of the Act prescribes a limitation of one year from the date of commission of offence, beyond which, the Court cannot take cognizance of the same. Further, the Commissioner of Food Safety has also accorded sanction for prosecution beyond one year without stating any reason for the delay. Therefore, the learned counsel submitted that the complaint is liable to be quashed.

4.Heard the learned counsel on either side and perused the entire materials available on record.

5.It is relevant to extract Section 77 of the Act :

"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."

6.On a perusal of the complaint, it is seen that the inspection was done by the respondent/Food Safety Officer on 12.08.2015 and the offence is said to have been committed on the same day, i.e. on 12.08.2015. Therefore, as per Section 77 of the Act, the prosecution ought to have been launched within a period of one year. However, in the present case, the complaint itself indicates that the complaint has been filed before the Court only on 16.11.2016, which is beyond the period of one year from the date of offence. Moreover, sanction was granted by the Commissioner of Food Safety, only on 30.09.2016. However, no petition to condone the delay is filed before the Court, there is no proper explanation given in writing for condoning the delay, except merely stating that the delay was on account of administrative grounds. No such valid reasons being assigned, the Court ought not to have condoned the delay and ought not to have taken cognizance of the complaint. In such view of the matter, the very entertainability of the complaint itself is not in accordance with law and is barred by limitation. Therefore, this Court is inclined to quash the complaint.



7. Accordingly, this Criminal Original Petition is allowed and as a sequel, the complaint in S.T.C.No.1851 of 2016, is quashed. Consequently, connected miscellaneous petitions are closed.

WEB COPY

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

mkkn

To

1. The Judicial Magistrate,
Paramathi, Namakkal.
2. The Food Inspector,
Kabilar Malai Union Office,
Namakkal District.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Karthikeyan, Advocate, S.R.No.62822

Crl.O.P.No.22789 of 2017

MG(CO)
RLP(28/12/2021)