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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Cr1.O.P.No.14675 of 2017
& Cr1.M.P.Nos.9297 & 9298 of 2017

(Through Video Conference)

Jayasakthi Edible Oils Pvt.Ltd,
R.Ramesh
S/o Raje,
383/9, Pillaiyar Nagar,
Kandampatty (PO),
Salem-5

...Petitioner

Vs.

The State rep. by its
Food Safety Officer,
Kallakurichi Municipality,
Villupuram District

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code to call for the records in S.T.C.No.432 of 2016 on the file of the Judicial Magistrate, Kallakurichi and quash the same.

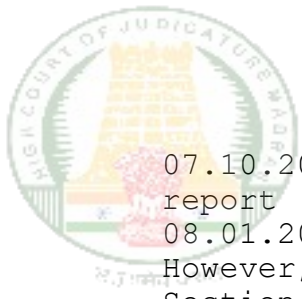
For Petitioner : Mr.R.Karthikeyan

For Respondent : Mr.S.Vinoth Kumar,
Government Advocate (Cr1.side)

O R D E R

This Criminal Original Petition has been filed to quash the complaint filed by the respondent in S.T.C.No.432 of 2016 on the file of the Judicial Magistrate, Kallakurichi and quash the same.

2.The main contention of the petitioner is that he has arrayed as A3. His main contention is that the complaint itself would indicate that the edible oil was packed during the year April 2014 and it has also clearly indicated that it should be used before six months from the date of package. Whereas, A1 is the retailer and A2 is the distributor and whereas the respondent has collected a sample from the A1's shop on



07.10.2014 and sent the sample to the laboratory and the analyst report was received on 21.10.2014. Thereafter again on 08.01.2015, the Central laboratory report has been received. However, prosecution has not been launched as contemplated under Section 42 of the Food Safety and Standards Act, but the prosecution was filed belatedly beyond the period of the limitation.

3. On perusal of the complaint, except the contention that there is an administrative delay, which resulted in filing the complaint with delay and no reason recorded by the respondent. In this regard, this Court has also deprecated the practice of the respondent for giving such reasons in a judgment reported in 2020 SCC Online Madras 12748 [G.Irudhayanathan vs., B.Ramakrishnan].

4. At any event, without going to merits, as far as A3 is concerned, he has only manufactured the edible oil in the year 2014 and he has indicated in the package that it should be used before six months from the date of the package. But, whereas both A1 and A2 sold the product even after the expiry of six months. Further, when the manufacturer has clearly indicated that it should be used before the expiry period of six months and the retailer has sold such oil after the expiry period, the manufacturer cannot be made liable for criminal action. At the most, the prosecution would be maintainable only as against A1 and A2, but not against A3.

5. In such view of the matter, this Court is inclined to quash the S.T.C.No.432 of 2016 on the file of the Judicial Magistrate, Kallakurichi against A3 alone.

6. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IX)

// True Copy //

Sub Assistant Registrar

rpp/gd

To

1. The Judicial Magistrate,
Kallakurichi.

2. The Chief Judicial Magistrate,
Villupuram.



3.The State rep. by its
Food Safety Officer,
Kallakurichi Municipality,
Villupuram District.

4.The Public Prosecutor,
High Court,
Madras.

+1cc to M/s.R.Karthikeyan, Advocate SR.No.58629

Cr1.O.P.No.14675 of 2017

BP (CO)
RVM(13/12/2021)