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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01/12/2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.18798 OF 2017

AND

CRL.M.P.NOS. 11445 & 11446 OF 2017

G. Kamaraj

...Petitioner

Vs.

P.Ezhilsikkiyaraja
Food Inspector
Kodumudi
Erode District.

...Respondent

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure (Cr.P.C) call for the records relating to C.C.No.39 of 2017 on the file of the District Munsif-cum-Judicial Magistrate, Kodumudi, and quash the same.

For petitioner : Mr.T.Muruganantham

For respondent : Mr.S.Vinothkumar
Government Advocate (Crl.Side)

O R D E R

This Criminal Original Petition has been filed to quash C.C.No.131 of 2017, pending on the file of the District Munsif-cum-Judicial Magistrate, Kodumudi.

2. It is the case of the prosecution that the respondent took samples in four packets, each containing 250 grams and sent for analysis. Report was received on 10/4/2013, indicating that the contraband is going to be used for adulteration of tea. Hence the sample was unsafe and misbranded, as per Sections 59 (i) and 52 (1) of Food Safety and Standard Act, 2006.

3. Heard the learned counsel appearing for the petitioner as well as Mr.S.Vinoth Kumar, learned Government Advocate (Crl.side) appearing for the respondent and perused the materials available on record.



4. The learned counsel appearing for the petitioner submitted that even before the receipt of the analyst report, the District Collector had given sanction to prosecute and the same is total non-application of mind. He further submitted that there is no material available to show that contraband is going to be used for adulteration of tea. The complaint was filed on 28/10/2014 for the alleged commission of offence on 29/3/2013. As per Section 77 of the Food Safety and Standards Act, 2006, the Commissioner of Food Safety, has to record the reasons in writing and accord prosecution within an extended period of upto three years. Moreover, sanction for prosecution was given only on 17/9/2014, without even ascertaining the particulars of the accused. Hence prays for quashing C.C.No.39 of 2017, pending on the file of the District Munsif-cum-Judicial Magistrate, Ambattur.

5. The learned Government Advocate (crl.side) appearing for the respondent produced a letter dated 17/9/2014 of the Commissioner of Food Safety and Drug Administration, Chennai, wherein it is stated that sanction accorded to launch prosecution to the respondent herein for the food sample of Tea Dust lifted from Sri Venkateswara Rice Mill, Keeramadai Road, Karumandampalayam.

6. On a careful perusal of the same, what comes to be known is that sanction has been issued only against the Company and it is not the case of the prosecution that the present petitioner was in charge of the company and moreover, the Company is also not made as an accused. Accordingly, the entire prosecution launched against the petitioner cannot be sustained in the eye of law. Therefore, continuation of proceedings against the petitioner herein is quashed.

7. In the result, this Criminal Original Petition is allowed. Proceedings in C.C.No.39 of 2017, pending on the file of the learned District Munsif-cum-Judicial Magistrate, Kodumudi, is quashed. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

mvs

To

1.The District Munsif
cum Judicial Magistrate,
Kodumudi,



2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.T.Muruganantham, Advocate SR.No.62951

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Cr1.O.P.No. 18798 of 2017

CP(CO)
RVM(21/12/2021)