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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.12.2021

Coram:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Cr1.O.P.No.28360 of 2017

&

Cr1.M.P.Nos.16107 & 16108 of 2017

1. S.Suresh
2. S.Anand

...Petitioners

Vs

The State of Tamil Nadu
Represented by the Food Safety Officer,
Tamil Nadu Food Safety and Medicine
Administration Department,
(Area Code 546 (DNS 133, 135, 136 & 141)
Chennai.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to C.C.No.4930 of 2016, pending on the file of the XVII Metropolitan Magistrate Court, Saidapet and quash the same.

For Petitioners: Mr.K.Rajasekaran

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

O R D E R

This petition has been filed to quash the charge sheet in C.C.No.4930 of 2016, pending on the file of the XVII Metropolitan Magistrate Court, Saidapet filed against the petitioners for the alleged offences under Sections 3(1)(zz)(x), 3(1)(zf)(A)(i), 52, 59(i) and 63 of the Food Safety and Standards Act.

2. The petitioners are A.5 and A.6, manufacturers of Tofu Soya Milk Panneer. On 19.08.2014, the Food Safety Officer taken sample from the shop [viz., Raise Enterprises] of Accused No.1 to A.4 and sent to analysis. The report was received on 03.09.2014 indicating that the sample was 'unsafe for human



consumption'. Thereafter, another sample was sent to the Referral Food Laboratory, Kolkatta and reports were received on 14.11.2014 and 17.11.2014 indicating that it is 'unsafe'.

3. Accordingly, the sanction was obtained on 27.04.2015 for filing a complaint. However, the complaint has been filed after a period of two years. In this ground, this Court, by an Order dated 02.11.2021 quashed the proceedings against A1 to A4 in CrI. O.P.No.7559 of 2014 and it is relevant to refer Section 77 of the Food Safety and Standards Act, 2006, which reads as under:

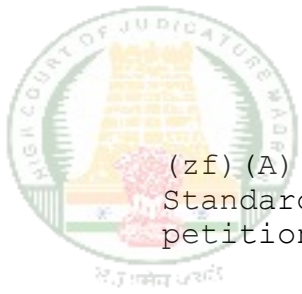
"77. Time limit for prosecution: Notwithstanding anything contained in this Act, no Court shall take cognizance of an offence under this Act after the expiry of the period of one year from the date of commission of an offence:

Provided that the commissioner of Food Safety may, for reason to be recorded in writing, approve prosecution within an extended period of up to three years."

4. On a perusal of the above said provision, it makes clear that the complaint has to be launched within a period of one year from the date of report. However, the Commissioner has a power to extend the period by recording the reasons in writing to approve the prosecution within an extended period of up to three years. But, in the case on hand, the sanction was accorded on 27.04.2015 within a period of one year.

5. It is not the case of the prosecution that the Commissioner by reasons recorded in writing, approved the prosecution, within the extended period of three years. No such reasons recorded in writing by the Commissioner to approve the prosecution beyond the period. But the complaint has been filed with a delay of two years. Certainly, the complaint is barred by limitation. When the Statute bars taking cognizance, the court below ought not to have taken cognizance.

6. In such view of the matter, this Criminal Original Petition is allowed and the charge sheet in C.C.No.4930 of 2016, pending on the file of the XVII Metropolitan Magistrate Court, Saidapet against the petitioners/accused Nos.5 & 6 for the alleged offences under Section 3(1)(zz)(x), Section 3(1)



(zf)(A)(i), Sections 52, 59(i) and 63 of the Food Safety and Standards Act is quashed. Accordingly, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ssd / kbs

To

1. The XVII Metropolitan Magistrate Court,
Saidapet.
2. The Food Safety Officer,
Tamil Nadu Food Safety and Medicine
Administration Department,
(Area Code 546 (DNS 133, 135, 136 & 141)
Chennai.

Crl.O.P.No.28360 of 2017 &
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KSM(CO)
SU(21/12/2021)