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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.19747 of 2017

and

Crl.M.P.Nos. 11916 & 11917 of 2017

I.S.A.K.Nazar

..Petitioner/Second Accused

Vs.

State: rep by

N.Karmegam,

The Food Safety Officer,

Ambattur-II, Code No.524,

Office of the Tamil Nadu Food Safety and

Medicine Administration Department,

AsooriStreet,Thiruvallur.

...Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure (Cr.P.C) call for the records and to quash all proceedings as against the petitioner in C.C.No.131 of 2017 on the file of the Judicial Magistrate, Ambattur, Chennai.

For petitioner : Mr.S.Prabakaran
Senior Counsel
for Mr.M.A.Gouthaman

For respondent : Mr.S.Vinothkumar
Government Advocate (crl.side)

O R D E R

This Criminal Original Petition has been filed to quash the complaint in C.C.No.131 of 2017, pending on the file of the Judicial Magistrate, Ambattur, Chennai.

2. It is the case of the prosecution that one Manna Health Mix, Southern Health Foods Pvt Ltd., is the manufacturer of the alleged Health Drink and the same was sent for analysis and report was received on 10.06.2014, indicating that the sample deviates from the declared value of protein. Hence the sample was sub-standard, unsafe and misbranded, as per Section 3 (1) (zx), 3 (1) (zz) (v) (x) and 3 (1) (zf) (A-i) of FSS Act, 2006. Subsequent, sample sent is also contained the same.



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.

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4.The learned counsel appearing for the petitioner submitted that the complaint was filed on 12/5/2017 for the alleged commission of offence on 29/5/2014. 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 12/4/2017, without even ascertaining the particulars of the accused. Hence prays for quashing C.C.No.131 of 2017, pending on the file of the Judicial Magistrate, Ambattur.

5. The learned Government Advocate (crl.side) appearing for the respondent produced a letter dated 12/4/2017 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 Manna Health Mix, which was lifted from Annai Store, Chennai./A.1.

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.131 of 2017, pending on the file of the learned Judicial Magistrate, Ambattur, is quashed. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

shk/mvs

To

1. The Judicial Magistrate,
Ambattur, Chennai.



2. Mr. N.Karmegam,
The Food Safety Officer,
Ambattur-II, Code No.524,
Office of the Tamil Nadu Food Safety and
Medicine Administration Department,
Asoori Street, Thiruvallur.

3. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No. 19747 of 2017

SVI (CO)
RGA (10/12/2021)