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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 4/1/2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No.23189 of 2017

a n d

Crl.M.P.Nos.13498 and 13499 of 2017

Narasus Coffee Company
rep. By Mr.S.Hariharan
16 Court Road
Johnsonpet
Salem 636 007.

... Petitioner/Accused3

Vs

The Food Inspector
Tiruppur City Municipal Corporation
Tiruppur 638 604.

... Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.324 of 2009 pending on the file of the learned Judicial Magistrate - II, Tiruppur and quash the same.

For Petitioner ... Mr.C.Emalias
for Mr.K.Prabakar

For Respondent ... Mr.S.Vinoth Kumar
Government Advocate
(Criminal Side)

O R D E R

This Criminal Original Petition has been filed to quash C.C.No.324 of 2009 pending on the file of the learned Judicial Magistrate - II, Tiruppur.

2. The main challenge to such proceedings before this Court is that there is a violation of the statutory provision, as contemplated under Sections 11 (4) and 13 (2) of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as the Act)..

3. Heard Mr.C.Emalias, learned counsel for the petitioner and Mr.S.Vinoth Kumar, learned Government Advocate (Criminal Side) for the respondent.



4. The learned counsel for the petitioner submitted that report of the Public Analyst, dated 6/2/2008, has been served on the petitioner only after one year and 8 months. Similarly, articles have not been sent to the Court within the time, as contemplated under Section 11 (4) of the Act.

5. It is useful to extract Sections 11(4) and 13 of the Prevention of Food Adulteration Act, 1954.

11 (4). An article of food seized under sub-Section (4) of Section 10, unless destroyed under sub-Section (4-A) of that Section, and any adulterant seized under sub-Section (6) of that Section shall be produced before a Magistrate as soon as possible and in any case, not later than seven days after the receipt of the report of the public analyst.

13 (2). On receipt of the report of the result of the analysis under sub-Section (1) to the effect that the article of food is adulterated, the Local (Health) Authority shall after the institution of prosecution against the person from whom the sample of the article of food was taken and the person, if any, whose name, address and other particulars have been disclosed under Section 14 - A, forward, in such manner as may be prescribed, a copy of the report of the result of the analysis to such person or persons, as the case may be, informing such person or persons that if it is so desired, either or both of them may make an application to the Court within a period of ten days from the date of receipt of the copy of the report to get the sample of the article of food kept by the Local (Health) Authority analysed by the Central Food Laboratory."

6. It is relevant to note that on an earlier occasion, the petitioner and another had filed CrI.O.P.No.9009 of 2011, to quash C.C.No.324 of 2009, pending on the file of the learned Judicial Magistrate No.II, Tiruppur. Vide, order, dated 2/11/2016, this Court had made the observation in para 2.2, and the same read as follows:-

"Thereafter, the respondent filed a complaint before the Judicial Magistrate Court No.II, Tiruppur, for offences under the Prevention of Food Adulteration Act, 1954, against Hariharan (A.1), M Paulraj



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(A.2) and Narasu's Coffee Company (A.3) and the same was taken on file on 7/12/2009. A copy of the report of the Public Analyst was served on the petitioners as contemplated under Section 13 (2) of the Prevention of Food Adulteration Act, on 12/12/2009, giving liberty to them to dispute the same within ten days from the date of receipt thereof."

7. After making the above observation, Crl.O.P.No.9009 of 2011 was dismissed, with liberty to the petitioners to raise all the points before the trial Court.

8. From the above, it makes it very clear that the copy of the Analyst Report, was served on the petitioner on 12/12/2009. Whether there is any delay or not is a matter of evidence to be proved. This Court, cannot make a roving enquiry while sitting under 482 of the Code of Criminal Procedure. When the Court has already recorded the fact that the copies have already been served on 12/12/2009, the same point in a different angle cannot be canvassed, which is nothing but an abuse of process of law.

9. In the result, this Criminal Original Petition is dismissed. The learned Judicial Magistrate No.II, Tiruppur, shall dispose of the case, pending in C.C.No.324 of 2009, within a period of six months, from the date of receipt of a copy of this order. Consequently, the connected Criminal Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

mvs.
To

1. The Judicial Magistrate - II, Tiruppur.

2. The Food Inspector
Tiruppur City Municipal Corporation
Tiruppur 638 604.

3.The Public Prosecutor,High Court, Madras.

+1 cc to Mr.I.Arokiasamy, Advocate Sr.NO. 851

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SVI (CO)
A.SK(20.01.2022)