



Crl.O.P.(MD) No.12154 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.(MD) No.12154 of 2022

and

Crl.M.P(MD)Nos.7680 and 7682 of 2022

I.M.Selvaraj

...Petitioner/Accused

Vs.

The Designated Officer,
Code No.012,
The Designated Officer's Office,
Multipurpose Health Supervisors (F)
Training School,
Viswanathapuram,
Madurai – 625 014.

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C.
praying to call for the records in S.T.C.No.610 of 2021 on the file of the
Judicial Magistrate No.VI, Madurai and quash the same.

For petitioner : Mr.M.Rajaraman
For Respondent : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition is filed to quash the proceedings in S.T.C.No.610 of 2021 on the file of the learned Judicial Magistrate No.VI, Madurai.

2.The learned counsel appearing for the petitioner submitted that the petitioner is doing the business of selling lighting oil. The respondent/Designated Officer has seized the lighting oil from the petitioner's premises on 20.04.2020 and not returned the oils seized by them. The petitioner has filed a Writ Petition in W.P(MD)No.15211 of 2020, to release the goods seized from the premises of the petitioner. This Court, by order dated 13.07.2021, directed the respondent herein to release the goods specified in seizure memo, dated 21.07.2020, which pertains to 188 Oil Tins, within a period of one week from the date of receipt of a copy of that order. He further submitted that the lighting oil will not come under definition of food, as per Section 3(J) explanation of Food Safety and Standards Act, 2006. Therefore, the prosecution is unsustainable and liable to be quashed.



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3.Today, the Food Safety Officer is present before this Court. The learned Additional Public Prosecutor appearing for the respondent, on instructions submitted that the respondent has seized only a lighting oil not edible oil.

4. I have considered the rival submission of both the learned counsel appearing on side and perused the materials available on records.

5.A perusal of records shows that the petitioner is an accused in S.T.C.No.610 of 2021 on the file of the learned Judicial Magistrate No.VI, Madurai. He was prosecuted by the respondent/Designated Officer for the offence under Sections 53(1)(a), 52, 51, 59(1), 58 and 63 of the Food Safety and Standards Act based on the analyst report, dated 23.09.2020. Further fact reveals that the seized oil is not the edible oil and it is only lighting oil. In this connection, it is to be noted that the definition of food as stated in Food Safety and Standards Act, 2006 and Section 3(J) of Food Safety and Standards Act 2006 reads as follows:-

"(j) "food" means any substance, whether processed, partially processed or unprocessed, which is intended for



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human consumption and includes primary food, to the extent defined in clause (ZK) genetically modified or engineered food or food containing such ingredients, infant food, packaged drinking water, alcoholic drink, chewing gum, and any substance, including water used into the food during its manufacture, preparation or treatment but does not include any animal feed, live animals unless they are prepared or processed for placing on the market for human consumption, plants prior to harvesting, drugs and medicinal products, cosmetics, narcotic or psychotropic substances: Provided that the Central Government may declare, by notification in the Official Gazette, any other article as food for the purposes of this Act having regards to its use, nature, substance or quality;

6. Further, the Commissioner of Food Safety has issued a circular on 17.12.2014, pertaining to lifting of oil samples and directed that the lighting oil is not edible use, it is not covered under Food Safety and Standards Act. Instead of the directions, the respondent lifting the lighting oil to Food Analysts and prosecuted. Hence, lighting oil is not a food as definition of the Food Safety and Standards Act 2006 and not for human contention prosecution will lie. It is not disputed that the samples of lifting from the petitioner's business is not edible oil and it is only



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lighting oil. Therefore, the prosecution against this petitioner in S.T.C.No.610 of 2021 on the file of the learned Judicial Magistrate No.VI, Madurai is unsustainable and liable to be quashed.

7. Accordingly, the proceedings in S.T.C.No.610 of 2021 on the file of the learned Judicial Magistrate No.VI, Madurai is hereby quashed. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

29.08.2022

Internet: Yes
Index: Yes/No
vsd

To

1.The Designated Officer,
Code No.012,
The Designated Officer's Office,
Multipurpose Health Supervisors (F) Training School,
Viswanathapuram,
Madurai – 625 014.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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V.SIVAGNANAM, J.

vsd

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