



Crl.O.P.(MD) No.14600 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 11.10.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.14600 of 2022
and Crl.M.P(MD) Nos.9437 and 9438 of 2022

B.Lakshmikanthan

...Petitioner

-VS-

**The Food Safety Officer
Code No.571
Office of the Designated Officer,
Tamil Nadu Food Safety and Administration Wing
1st Floor, Office of the Deputy Director of Health Services
Multipurpose Health Supervisors
Training School,
Viswanathapuram, Madurai-14**

..Respondent

**PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C,
praying to call for the records and quash the proceedings in STC.No.7626 of
2021 on the file of the Judicial Magistrate No.VI,Madurai in so far as the
Petitioner**

**For Petitioner : Mr. N.Rajaraman
For Respondent : Mr.Meenakshi Sundaram
Additional Public Prosecutor**



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in STC.No.7626 of 2021 on the file of the Judicial Magistrate No.VI,Madurai

2. The learned Counsel for the Petitioner submitted that the Food Safety Officer lifted Palmolein Oil on 19.05.2020 and it was sent to the laboratory. The report was received on 17.08.2020 and sent to the Petitioner on 07.10.2020. When the Petitioner is aggrieved by the report he filed an appeal and also seeking the appellate authority/Designated Officer to sent another sample to the referral laboratory. Accordingly he had paid a sum of Rs.5900/- by way of Demand Draft and send request to the Designated Officer on 05.11.2020 and filed an appeal on 07.11.2020. Accepting the appeal filed on 07.11.2020, the Designated Officer sent a letter on 24.11.2020. Accordingly the Petitioner had sent demand draft for a sum of Rs.5900/- on 18.12.2020, which was received by the Designated Officer on 19.12.2020.



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3. The learned Additional Public Prosecutor disputed the same and submitted that the letter was received only by the Superintendent on 19.12.2020 and not by the Designated Officer.

4. The learned Counsel for the Petitioner relied on the postal delivery manifest wherein it was stated that it was delivered on 19.12.2020. He also relied on the Rule 2.4.6 of the Food Safety and Standard Rules in support of his contention. Only after getting report from the referral laboratory complaint can be lodged. In this case the Petitioner had filed an appeal. The Designated Officer in indulgence in sending the second sample to the referral lab, complaint had been lodged. He further stated that the Food Safety Officer had not obtained sanction within the prescribed period of 14 days after receipt of lab report. He also relied on the decision of this Court in the case of *M.Mahadevan -vs- The Food Safety Officer, Tamil Nadu Food Safety and Standards Department in Crl.O.P(MD) No.25484 of 2016 dated 15.09.2017* and in the case of *G.Irudhayanathan -vs - B.Ramakrishnan in Crl.O.P(MD) No.774 of 2020 dated 06.08.2020* .



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5. The learned Additional Public Prosecutor filed counter and submitted that the Designated Officer received referral lab appeal letter dated 05.11.2020 requesting the procedure to sent the sample to referral laboratory, which was considered by the Designated Officer, Madurai and replied the procedures of re-analysis with DD particulars through his letter dated 24.11.2020. The letter dated 18.12.2020 along with Demand Draft for Rs.5,900/- bearing No.938842 dated 15.12.2020 was not received by the Designated Officer, Madurai. He further submitted that the Demand Draft was not yet credited in the Government Account. The Petitioner planned to prepare the documents for the purpose of suppressing the real facts. The Petitioner is also dragging on the proceedings against him by the Complainant. It is the contention of the learned Additional Public Prosecutor that the Petitioner and those who are facing similar prosecution use the reported ruling in such way and they do not sent the Demand Draft letter requesting time. Here in this case, the Designated Officer had not received it. It is the contention of the learned Additional Public Prosecutor that the Superintendent of the Food Safety Department is alleged to have received it and the Designated Officer had not received it.



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6. The submission of the learned Additional Public Prosecutor cannot be accepted in the light of the postal manifest receipt which is furnished by the learned Counsel for the Petitioner and the grounds raised by the learned Counsel for the Petitioner regarding not sending the sample after receipt of Demand Draft to the referral lab and not addressing the letter request for prosecution within 14 days as stipulated by the Rules.

7. In the light of the rulings submitted by the learned Counsel for the Petitioner this petition is allowed and the proceedings in STC.No.7626 of 2021 on the file of the learned Judicial Magistrate No.VI, Madurai is hereby quashed. Consequently connected miscellaneous petitions also closed.

11.10.2022

Internet:Yes./No
Index:Yes/no
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To

1. The Food Safety Officer
Code No.571
Office of the Designated Officer,
Tamil Nadu Food Safety and Administration Wing
1st Floor, Office of the Deputy Director of Health Services
Multipurpose Health Supervisors
Training School,
Viswanathapuram, Madurai-14
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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