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Crl.O.P(MD) N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.(MD) No.15146 of 2022

and

Crl.M.P(MD)No.9926 of 2022

K.Mariappan

...Petitioner/Sole Accused

Vs.

State of Tamil Nadu represented by its
Food Safety Officer,
Manamadurai & Thirupuvanam Zone,
Code No.200,
Office of the Manamadurai Town Panchayat,
Manamadurai - 630 606,
Sivagangai District.

...Sole Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the entire records of the proceedings in S.T.C.No.5 of 2021 on the file of the District Munsif Cum Judicial Magistrate Court, Thiruppuvanam.

For petitioner	: Mr.D.Gurusamy
For Respondent	: Mr.E.Antony Sahaya Prabahar Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed to quash the proceedings in S.T.C.No.5 of 2021 on the file of the learned District Munsif-cum-Judicial Magistrate, Thiruppuvanam.

2.The learned counsel appearing for the petitioner submitted that the respondent/Food Safety Officer, prosecuted the petitioner for the commission of the offence under Sections 51, 59(1) and 63 of the Food Safety and Standards Act, 2006. But the prosecution is not maintainable on the ground that the prosecuting officer do not follow the provision 42(3) of Food Safety Standards Act, 2006. The respondent has received the food sample report from the analyst on 23.12.2019. As per the provision 42(3) of the Food Safety and Standards Act 2006, the designated officer has to send his recommendation letter to the Commissioner of Food Safety and Drug Administration, Chennai, for sanction within 14 days, but he failed. Therefore, non following of mandatory requirement of the provision 42(3) of the Food Safety and Standards Act 2006, the prosecution is unsustainable and liable to be quashed.



3. The learned Additional Public Prosecutor appearing for the respondent had gone through the records and he conceded that the respondent has received the report from the Food Analyst on 23.12.2019 and the recommendation letter sent to the Commissioner of Food Safety and Drug Administration, Chennai on 05.08.2022 beyond 14 days.

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 the records reveals that the petitioner is an accused in S.T.C.No.5 of 2021 on the file of the District Munsif Cum Judicial Magistrate Court, Thiruppuvanam. He was prosecuted by the respondent/Food Safety Officer for the offence under Sections 51, 59 (1) and 63 of the Food Safety and Standards Act, 2006. On perusal of records, it is seen that the respondent has received the food sample report from the Food Analyst on 23.12.2019 and he sent the recommendation letter to the Commissioner of Food Safety and Drug Administration, Chennai on 05.08.2022 beyond 14 days. As required by the provision 42(3) of the Food Safety and Standards Act 2006, there is no acceptable reason for not sending recommendation letter to the Commissioner of Food Safety and Drug Administration, Chennai. On the part of the respondent for non-compliance of requirement of the provision 42(3) of the Food Safety and Standards Act 2006, this prosecution is liable to be quashed.

6. Accordingly, the proceedings in S.T.C.No. 5 of 2021 on the file of the learned District Munsif Cum Judicial Magistrate Court, Thiruppuvanam is hereby quashed. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/09/2022

Sub Assistant Registrar(CS)

Vsd

To

1.The District Munsif Cum Judicial Magistrate, Thiruppuvanam.

2.The Food Safety Officer,
Manamadurai & Thiruppuvanam Zone,
Code No.200,
Office of the Manamadurai Town Panchayat,
Manamadurai - 630 606,
Sivagangai District.



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

+1 CC to M/s.D.GURUSAMY, Advocate (SR-41359[F] dated 29/08/2022)

Crl.O.P.(MD) No.15146 of 2022
and
Crl.M.P(MD)No.9926 of 2022
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