

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 30/08/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP(MD)No.14460 of 2019
and
Crl.MP(MD)No.8728 of 2019

1.C.Vijayapandi
2.M/s.Sathya Cottage Industries,
(Production)
Rep by its owner M.Kannan

3.M.Kannan : Petitioners/A1 to A3

Vs.

State,
Rep. by Food & Safety Officer,
Code No.578,
Tamil Nadu Food Safety & Drug Administration
Department,
Food Safety Wing,
1st Floor, Viswanathapuram,
Madurai-14. : Respondent/Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records relating to STC No.239 of 2018 on the file of the Judicial Magistrate No.VI, Madurai and quash the same.

For Petitioners : Mr.S.Mahendrapathy

For Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor

O R D E R

This criminal original petition is filed seeking quashment of the case in STC No.239 of 2018 on the file of the Judicial Magistrate No.VI, Madurai.

2.The facts in brief:-

The de-facto complainant is the Food Safety Officer filed a private complaint stating that on 30/01/2017 at about 11.30 am, he conducted raid at A1's shop in the name and style of 'Viji Egg Stores' and found 200 pockets each contains 20 grams of Chicken 65 Masala pre-packed. On enquiry, it revealed that he purchased the same from A3 company. Further process of sampling was taken and after completing the formalities of the food analyst, it was found that it was unsafe and misbranded. On the basis of the above said, he lodged a complaint seeking punishment upon the accused persons stating that they have committed the offences under sections 51, 52(1), 59(i) and 63 of the Food Safety and Standards Act, 2006.

3. Seeking quashment of the same, all the accused persons filed this petition on the ground that there was a procedural violation of section 46(3) of the Act and the analyst must analysis the food sample within 14 days from the date of receipt of the sample; But here, it was done only, on 22/02/2017; the delay has not been properly explained; So this the only ground which was made by him.

4. Heard both sides.

5. The only ground on which this petition came to be filed is the procedural violation of section 46 of the Act.

6. The learned Additional Public Prosecutor would submit that the de-facto complainant was examined in chief as early as on 25/03/2021 and for purpose of cross examination, it was submitted by the accused persons that they have not cross examined the de-facto complainant.

7. Since already the prosecution has commenced and the matter is listed for further evidence, I am of the considered view that the technical ground, which has been

raised by the petitioner at this stage is not at all proper. So, the petition is liable to be dismissed.

8.In the result, this criminal original petition is **dismissed** with liberty to the petitioners to put forth their defence during the trial process. Consequently, connected Miscellaneous Petition is closed.

30/08/2022

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Judicial Magistrate No.VI,
Madurai.
- 2.The Tamil Nadu Food Safety & Drug Administration
Department,
Food Safety Wing,
1st Floor, Viswanathapuram,
Madurai-14.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

G.ILANGOVAN, J

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Cr1.OP(MD)No.14460 of 2019

30.08.2022