

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

901 CRIMINAL WRIT PETITION NO.281 OF 2016

**ANIL S/O. SHRIKRISHNA AGARWAL
VERSUS
THE STATE OF MAHARASHTRA AND ANR.**

Miss Tejshree K. Nalawade h/f. Smt. Anjali Dube (Bajpai), Advocate for the petitioner.

Mr.S.R. Yadav-Lonikar, APP for the respondent/State.

**CORAM : KISHORE C. SANT, J.
DATED : 28.03.2023**

PC :-

01. Heard learned Advocates for the parties for long. The petition is taken up for final disposal by the consent of the parties.

02. In this petition, challenge is raised to an order dated 21.07.2015 passed by the learned Additional Sessions Judge, Latur in Criminal Revision No.46 of 2012 and the order below Exh.89 dated 15.03.2012 rejecting the revision application filed by the present petitioner. By the impugned order, the order passed by learned JMFC on application Exh.36 in RCC No. 6 of 2003 (new number RCC No. 299 of 2009) came to be confirmed. The petitioner had filed application for discharge and the same was rejected by order dated 19.11.2008. The discharge application was mainly filed on the ground that

the authorities have no power to decide the complaint under the Prevention of Food Adulteration Act, as it is a case lodged on a complaint otherwise than police report.

03. During the course of arguments, attention of this Court is invited to an order dated 03.08.2016 passed by this Court in Criminal Writ Petition No.283 of 2016 in respect of the same petitioner, in similar circumstances, wherein this Court had passed following order :-

“(I) Criminal Writ Petition is hereby partly allowed;

(II)The order passed below Exh.119 dated 15th March 2012 in R.C.C.No.298 of 2009 by the Chief Judicial Magistrate, Latur and the judgment and order passed by Additional Sessions Judge, Latur in Criminal Revision No.47 of 2012 are hereby quashed and set aside;

(III) The learned Magistrate may proceed with the case for the offence punishable under Section 7 (i) read with Section 2 (ia)(a), Section 7 (i) read with Section 2 (ia) (c) and Section 7 (i) read with Section 2 (ia) (h) read with Section 16 of the Act of 1954, from the stage of framing of the charge against the petitioner/accused, in compliance with the directions given by the Sessions Court in Criminal Revision No.12 of 2009 dated 9th December 2009.

(IV) Criminal Writ Petition is accordingly disposed of.”

04. The above quoted order was passed in respect of tea powder; whereas this petition is in respect of double filtered coconut oil. This petition can also be disposed of in terms of clause (III) of the above quoted order. Hence, the following order is passed :-

ORDER

- (I) Criminal Writ Petition is hereby partly allowed.
- (II) The order passed below Exh.89 dated 15.03.2012 in R.C.C.No.299 of 2009 by the learned Chief Judicial Magistrate, Latur and the judgment and order dated 21.07.2015 passed by Additional Sessions Judge, Latur in Criminal Revision No.46 of 2012 are hereby quashed and set aside;
- (III) The learned Magistrate may proceed with the case for the offence punishable under Section 7 (i) read with Section 2 (ia)(a), Section 7 (i) read with Section 2 (ia) (c) and Section 7 (i) read with Section 2 (ia) (h) read with Section 16 of the Act of 1954, from the stage of framing of the charge against the petitioner/accused.
- (IV) Criminal Writ Petition is accordingly disposed of.

[KISHORE C. SANT, J.]