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Crl.O.P.Nos.21076 & 21080 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2023

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.Nos.21076 & 21080 of 2022
and
Crl.M.P.Nos.13744 &13746 of 2022

1.Max Hyper Market India Private Limited
(Spar Hyper Market)
83, Arcot Road, Vadapalani,
Chennai - 600 026.
represented by its Manager,
Mr.Jai Shankar

2.Mr.Manikanda Prabhu (Nominee),
S/o.Pongaliappan

3.Vivek Jothimani ... Petitioners in both Crl.O.Ps.

-Vs-

1.Government of Tamil Nadu,
Food and Safety Officer,
No.545, Vadapalani Area,
Tamil Nadu Food Safety and Drugs Department,
O/o.Designated Officers Office,
Chennai District,
No.33, West Jones Road, Saidapet,
Chennai - 600 015.

2.Sudhir Kumar
S/o.Rajendra Varma

3.Saraswathi
W/o.Y.Selvam

...Respondents in both Crl.O.Ps.



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Criminal Original Petitions filed under Section 482 of Cr.P.C.,
praying to call for the entire records pertaining to C.C.Nos.97 & 98 of
2020 on the file of XVII Metropolitan Magistrate Court, Saidapet,
Chennai and quash the same.

For Petitioners : Mr.G.Balasubramanian
[in both Crl.O.Ps.]
For Respondents : Mr.A.Damodaran,
[in both Crl.O.Ps.] Additional Public Prosecutor [R1]

COMMON ORDER

Since the issue involved in both these writ petitions are common
they are taken up together, heard and disposed of through this common
order.

2. These petitions have been filed to quash the proceedings in
C.C.Nos.97 & 98 of 2020 on the file of XVII Metropolitan Magistrate
Court, Saidapet, Chennai.

3. The first respondent has enquired the criminal complaint against
the petitioners for offences u/s.52 and 59(1) of the Food Safety and
Standards Act, 2006 [for brevity 'the FSS Act'].

4. The main ground that was urged by learned counsel for



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petitioners is that the sample was taken on 26.10.2018 and the food analysis report, which is supposed to be given within 14 days was sent only after a period of nine months and therefore, there is a violation of Section 42(2) of the FSS Act. Learned counsel further submitted that the only reason that has been given for the delay was that there was some administrative delay and therefore, the report was given beyond the time stipulated u/s.42(2) of the FSS Act.

5. Heard Mr.G.Balasubramanian, learned counsel for petitioners and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for first respondent.

6. The issue that is involved in the present case is covered by the earlier orders passed by this Court in (i) ***Amma Naana Departmental Stores and others v. State of Tamil Nadu [2020 SCC OnLine Mad 9099]*** (ii) ***G.Irudhayanathan v. B.Ramakrishnan [2020 SCC OnLine Mad 12748]*** and (iii) ***R.Paduvairajan and another v. Food Safety Officer [2021 SCC OnLine Mad 9289]***. It is clear from the above three orders that where there is violation Section 42(2) of the FSS Act, the

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complaint itself will be barred and the above orders will squarely apply to the facts of the present cases.

In the light of the above discussion, these Criminal Original Petitions are allowed and the proceedings in C.C.Nos.97 & 98 of 2020 on the file of XVII Metropolitan Magistrate Court, Saidapet, Chennai, is quashed. Consequently, connected miscellaneous petitions are closed.

14.07.2023

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

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To

1. The XVII Metropolitan Magistrate Court,
Saidapet, Chennai.

2. The Food and Safety Officer,
Government of Tamil Nadu,
No.545, Vadapalani Area,
Tamil Nadu Food Safety and Drugs Department,
O/o. Designated Officers Office,
Chennai District,
No.33, West Jones Road, Saidapet,
Chennai - 600 015.

3. The Public Prosecutor,
Madras High Court.

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