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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2023

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.15981 of 2023
and Crl.MP.Nos.9998 & 9999 of 2023

Mrs.Renuka Devi

... Petitioner/3rd Accused

-Vs-

State Rep.by
The Food Safety Officer
Mr.Manimurugan
Code No.543
The Tamil Nadu Food Safety Department
Teynampet & Valluvarkottam Zone
No.33, West Jones Road
Saidapet
Chennai-600 015.

..Respondent/Complainant

Criminal Original petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.1180 of 2023, pending on the file of the learned XVII Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioner : Mr.V.S.Senthilkumar

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This criminal original petition has been filed seeking to quash the proceedings in C.C.No.1180 of 2023, on the file of the XVII Metropolitan



2.The issue involved in this case is covered by the earlier judgments of the Apex Court and this Court and hence, the main petition itself is taken up for hearing.

3.The respondent has filed a private complaint against four accused persons u/s 59(1) and 51 of the Food Safety and Standards Act, 2006 (hereinafter referred as 'the Act'). The petitioner has been arrayed as A.3 in the complaint. The main allegation as found in the complaint is that the food that was prepared in the hotel was inspected and it was sent for analysis and it was found that it is substandard and unsafe. In view of the same, this criminal original petition has been lodged by the respondent.

4.Heard Mr.V.S.Senthilkumar, learned counsel for the petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing on behalf of the respondent.

5.The petitioner has been arrayed as A-3 on the ground that she is the Director of the A-1 Company. Section 66 of the Act provides for offences by Companies. Section 66(1) of the Act states that every person who at the time the offence was committed was in charge of and was responsible to the Company for the conduct of the Company, shall be deemed to be guilty of the offence. On carefully going through the complaint, there is not even a



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whisper that the petitioner (A.3) was incharge of and was responsible to the A.1 Company for the conduct of the business of the Company. Hence, the requirement u/s 66(1) of the the Act, has not been satisfied.

6. Section 66(2) of the Act provides that where the offence as was committed with the consent or connivance of or is attributable to any neglect on the part of any director, then such a Director can be proceeded against and punished. To bring the case under this sub clause, there are no allegations against the petitioner to that effect. Hence, the requirement u/s 66(2) of the Act has also not been satisfied.

7. In the considered view of this Court, the requirement u/s 66(1) of the Act / Section 66(2) of the Act is not a matter of assumption and there must be an allegation to that effect in the complaint to proceed further against the Director. In the instant case, except mentioning in the complaint that the petitioner is a director of A-1 Company, there is no other allegation against the petitioner. Hence, the petitioner cannot be prosecuted for vicarious liability without satisfying the requirements u/s 66(1)/66(2) of the Act. Hence, insofar as the petitioner is concerned, the continuation of the proceedings will amount to abuse of process of Court which requires the interference of this Court u/s 482 of Cr.PC.



8. In view of the above discussion, the proceedings in C.C.No.1180 of 2023, pending on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai, is hereby quashed insofar as the petitioner/A.3 is concerned. The Court below is directed to proceed further with the complaint against A1, A2 and A4 and the proceedings shall be completed within a period of **three months** from the date of receipt of copy of this order.

9. In the result, this criminal original petition is allowed with the above directions. Consequently, connected miscellaneous petitions are closed.

18.07.2023

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Index : Yes/No

Internet : Yes/No

To

1. The Food Safety Officer
Mr. Manimurugan
Code No.543
The Tamil Nadu Food Safety Department
Teynampet & Valluvarkottam Zone
No.33, West Jones Road
Saidapet
Chennai-600 015.

2. XVII Metropolitan Magistrate
Saidapet, Chennai.

3. Additional Public Prosecutor
High Court, Madras.



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N.ANAND VENKATESH, J.

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