



Crl.O.P.No.18528 of 2023

Crl.O.P.No.18528 of 2023
and Crl.M.P.Nos.12328 and 12330 of 2023

N.ANAND VENKATESH, J.

Today, the matter was listed under the caption “for being mentioned”.

2. It is submitted by the learned Counsel for the petitioners that the designation of the learned Magistrate in the order is wrongly mentioned as "V Metropolitan Magistrate, Egmore" instead of "X Metropolitan Magistrate, Egmore" and in the paragraph No.7 of the order, it is wrongly mentioned as "writ petition" instead of "Criminal Original Petition". Therefore, the designation of the learned Magistrate should be changed as "X Metropolitan Magistrate, Egmore" wherever it is required and the paragraph No.7 should be replaced as follows:-

*"7. This Criminal Original Petition is disposed of in the above terms.
Consequently, connected miscellaneous petitions are closed."*

3. The Registry is directed to carry out the necessary corrections in the order and issue fresh order copy.

19.09.2023

grs



WEB COPY



Crl.O.P.No.18528 of 2023

N.ANAND VENKATESH, J.

grs

Crl.O.P.No.18528 of 2023
and Crl.M.P.Nos.12328 and 12330 of 2023

19.09.2023



WEB COPY



Crl.O.P.No.18528 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.18528 of 2023
and Crl.M.P.Nos.12328 & 12330 of 2023

1.V.Raghunathan

2.Nestle India Limited
Unit II Patti, Kalyana
Kiwana Road, Samalkha
132101, Panipat, Haryana

... Petitioners

Vs.

State Rep. by
Food Safety Officer,
Area Code No.538 , Chennai District,
O/o. The Designated Officer,
Tamil Nadu Food Safety and Drug Department,
No.33, West Jones Road,
Saidapet, Chennai – 600 015.

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.1841 of 2019, pending on the file of the learned V Metropolitan Magistrate, Egmore and quash the complain dated 12.02.2019 and consequently, the proceedings initiated in furtherance thereto.

For Petitioners : Mr.R.S.Diwakar



WEB COPY



Crl.O.P.No.18528 of 2023

For Respondent : Mr.A.Gopinath
Government Advocate (Crl. Side)

ORDER

This criminal original petition has been filed to quash the proceedings in C.C.No.1841 of 2019, pending on the file of the learned V Metropolitan Magistrate, Egmore.

2.Heard the learned counsel for the petitioners and the learned Government Advocate (Criminal Side).

3.The learned counsel for the petitioners raised various legal grounds questioning the very maintainability of the complaint filed by the respondent against the petitioners. One important ground that was raised by the learned counsel for the petitioners is that the Court below has taken rubber stamp cognizance which clearly reflects that there is no application of mind and that the cognizance has been taken mechanically.

4.In the considered view of this Court, there is no need to go into any of the other grounds that have been raised by the learned counsel for the



Crl.O.P.No.18528 of 2023

petitioners and it will suffice to interfere with the cognizance taken by the Court below since a rubber stamp cognizance has been taken.

5.This Court had an occasion to deal with the same issue in ***Shanmugam and others vs. The Inspector of Police, Ariyalur Police Station, Ariyalur and Others*** reported in ***2019 3 MLJ (Crl) 339*** and this Court came down heavily on the trial Courts taking rubber stamp cognizance without any application of mind and even without recording the *prima facie* reasons for taking cognizance of a complaint. This Court held that taking cognizance is a judicial act which requires application of mind and where a rubber stamp cognizance is taken, it is more in the nature of an administrative function which is not expected of a judicial officer who performs an important judicial function of taking cognizance of a complaint in accordance with the Code of Criminal Procedure.

6.In view of the above, the rubber stamp cognizance taken by the Court below is liable to be interfered by this Court and accordingly, the cognizance of the complaint taken by the court below is hereby, set aside. The matter is remanded back to the file of the V Metropolitan Magistrate, Egmore and the learned Magistrate is directed to carefully go through the



Crl.O.P.No.18528 of 2023

complaint and the documents filed along with the same and apply his mind and thereafter, take cognizance of the complaint against those persons against whom the offense is made out. This process shall be completed by the trial Court, within a period of four weeks from the date of receipt of copy of this order. If ultimately, the cognizance is taken and the summons are issued to the petitioners and the petitioners are aggrieved by the same, it is left open to the petitioners to workout their remedy in the manner known to law. The other legal grounds raised by the petitioners is left open.

7.This writ petition is disposed of in the above terms. Consequently, connected miscellaneous petitions are closed.

24.08.2023

Index : Yes/No
Internet : Yes/No
Speaking/Non-Speaking Order
ssr

To

- 1.The V Metropolitan Magistrate, Egmore.
- 2.TheFood Safety Officer,



Crl.O.P.No.18528 of 2023

Area Code No.538 , Chennai District,
O/o. The Designated Officer,
Tamil Nadu Food Safety and Drug Department,
No.33, West Jones Road,
Saidapet, Chennai – 600 015.

3.The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.O.P.No.18528 of 2023

N.ANAND VENKATESH, J

SSI

Crl.O.P.No.18528 of 2023
and Crl.M.P.Nos.12328 & 12330 of 2023

24.08.2023