



Crl.O.P.(MD)No.1840 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 20.04.2023

Delivered on : **07.06.2023**

CORAM:

THE HONOURABLE MRS.JUSTICE **R.THARANI**

Crl.O.P.(MD) No.1840 of 2021
and
Crl.M.P.(MD)Nos.905 & 906 of 2021

K.Ramesh ... Petitioner / Accused No.2

Vs.

1.The State Represented through

The Food Safety Officer,

Madurai Corporation,

Code No.572, O/o. Designated Officer,

Tamil Nadu Food Safety and

Drugs Administration,

Viswanathapuram,

Madurai-625 014.

... 1st respondent / Complainant

2.R.Duraiarasan

... 2nd respondent /Accused No.1

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in connection with the impugned charge sheet in S.T.C.No.5662 of 2020, on the file of the Judicial Magistrate Court No.1, Madurai, Madurai District and to quash the same insofar as the petitioner is concerned.



For Petitioner : Mr.S.Sarvagan Prabhu

For Respondents : Mr.M.Sakthi Kumar
Government Advocate (CrI.Side) for R1

: Mr.S.Chandrasekaran for R2

ORDER

This petition is filed to quash the charge sheet in S.T.C.No. 5662 of 2020, on the file of the Judicial Magistrate Court No.1, Madurai, Madurai District.

2. The allegation against the petitioner is that the complainant being a Food Safety Officer of Madurai Corporation, went for surprise inspection, on 05.02.2020, at about 12.20 pm.,and he inspected the shop of A1 and he took samples of Jaggery kept for sale. By following due process, the samples were taken and sent for examination and report was received on 16.03.2020, stating that the Food sample was sub-standard quality and unsafe. Therefore, the complainant after getting approval from the Commissioner of Food Safety, initiated proceedings and the case was registered.

3. On the side of the petitioner, it is stated that the respondent registered the case under Sections 51 and 59(i) of the Food



Safety and Standards Act, without proper investigation. Procedures were not duly followed. The complaint is in violation of Sections 42(2) and 42(4) of the Food Safety and Standards Act. The allegations are perverse in nature and they did not disclose any offence and the grounds are insufficient to proceed against the petitioner.

4. The analysts, who gave a report that the quantity of the Food is sub-standard, cannot certify the product as unsafe. Substandard and unsafe food are two different allegations and they won't go together. The products should be sent for analysts within 4 days, and the report should be filed within 14 days. As per Section 43 of the Act, recommendation for filing the case has to be sent within 14 days, but, the recommendation was sent after a period of six months, which is in violation of the Act.

5. On the side of the prosecution, it is sated that 2 Kgs of Jaggery was taken from the shop of the petitioner and one pack of the sample was sent for analysis on 02.06.20 and the report was received on 11.03.2020. The percentage of the Sulfar-di-Oxide is more and the product is substandard and unsafe. Notice was given to the petitioner,



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there was no representation for him. The petitioner failed to avail the remedy by sending the second set for analysis. The delay in getting the sanction for filing the case is not fatal. There is no delay on the part of the sanctioning authority in sanctioning permission to prosecute the petitioner.

6. On the side of the second respondent, it is stated that the second respondent is a retailer, who purchase the product from the petitioner and he was impleaded only as a formal part.

7. Whether the seized articles were of substandard quality or unsafe food, whether the delay in sending the recommendation for sanction is fatal to the case can be decided only at the time of trial.

8. In the above circumstances, this petition is dismissed.
Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes/No
Index : Yes/No
Ls

07.06.2023



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To

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- 1.The Judicial Magistrate Court No.1,
Madurai, Madurai District.
2. The Food Safety Officer,
Madurai Corporation,
Code No.572, O/o.Designated Officer,
Tamil Nadu Food Safety and Drugs Administration,
Viswanathapuram, Madurai-625 014.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.THARANI. J.

Ls

Pre-delivery order made in
Crl.O.P.(MD)No.1840 of 2021

07.06.2023