



CrI.O.P.(MD) No.2865 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2024

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

CRL.O.P (MD) No.2865 of 2021

and

CrI.M.P(MD) Nos.1529 & 1530 of 2021

1. N.Kamaraj

2. M.Prabhakaran

... Petitioners/Accused No.1 and 2

Vs

The Food Safety Officer,
Madurai Corporation (Code No.572),
Food Safety and Drug Administration Department,
Viswanathapuram,
Madurai-625 014.

... Respondent /Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for records and quash the proceedings in S.T.C.No.3550 of 2020 on the file of the Judicial Magistrate Court No.1, Madurai against this petitioners.

For Petitioners : Mr.M.Rajaraman

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.3550 of 2020 on the file of the Judicial Magistrate Court No.1, Madurai.

2. The learned counsel for the petitioners submitted that the complainant Designated Officer along with the Food Safety Officers came to the shop of the first accused viz., Kamaraj, on 05.02.2020, at about 12.10 p.m., and took food samples of “அச்சு வெல்லம்” (Loose Condition) and forwarded it to the Food Analyst. He further submitted that the first accused had stated that he is the retailer and the designated officer seems to have taken 4 samples weighing 250 kg each from the first accused and sealed the same by following the procedure as contemplated under the Food Safety and Standards Act, 2006, and seized the remaining back stock of the said “அச்சு வெல்லம்” (Loose Condition) and had sent the same to the Food Analyst. The Food Analyst had sent a report on 11.03.2020 stating that the sample was substandard and unsafe. The Designated Officer had sent the report of the Food Analyst along with his notice, dated 20.03.2020. Based on the report of the Food Analysis, a detailed report was submitted to the



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Commissioner, Food Safety and Drug Administration, Chennai, sought for permission to initiate proceedings against the accused. Since there was no claim from the petitioners to sent the second sample for analyzing, a complaint was lodged before the learned Judicial Magistrate Court No.I, Madurai as per Section 190(1)(a) and 200 of Cr.P.C., against the accused for the offences punishable under Sections 51, 59(i) of the Food Safety and Standards Act, 2006 and the same was taken on file in S.T.C.No.3550 of 2020. Aggrieved against the same, this Criminal original Petition is filed to quash the proceedings as against the petitioners.

3.The learned counsel appearing for the petitioner submitted that the petitioners herein are only retailer. The Designated Officer, Madurai has sent a notice to the accused on 20.03.2020 and the same was received by the accused on 21.03.2020. Due to Covid-19 pandemic, the Government has announced lock down from 23.03.2020 and there was no opportunity to the petitioners to file an appeal. Accordingly, he prayed to quash the impugned charge sheet.



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4.Per contra, the learned Additional Public Prosecutor appearing for the first respondent submitted that the recommendation letter was sent to the petitioners on 19.03.2020. But, on the same day itself, they sent a communication to the respondent on 19.03.2020 stating that they have not want to send second sample for food analyzing. Based on that only, the present proceedings have been initiated against the petitioners. He further submitted that there are materials available to proceed with the case as against the petitioners herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioners have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5.Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

6.Time and again, this Court as well as the Supreme Court has cautioned the courts about the necessary precautions to be taken while quashing the charge sheet at the initial stage. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***.



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7.In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioners if they are subjected to due trial as sufficient opportunity would be given to the petitioners to put forth his defence. The petitioners cannot be let by quashing the charge framed against them as that would completely undermine the alleged acts, which is the subject matter of criminal trial pending against them.

8.For the reasons aforesaid, this Court finds no ground or scope to quash S.T.C.No.3550 of 2020 on the file of the Judicial Magistrate Court No.1, Madurai. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected Miscellaneous Petitions are closed.

9.At this juncture, the learned counsel appearing for the petitioners prayed to dispense with the personal appearance of the petitioners before the Trial Court.

10.Considering the request made by the learned counsel appearing for the petitioners, the personal appearance of the petitioners is dispensed with



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before the trial Court with the following conditions:-

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i)The personal appearance of the petitioners is dispensed with except for their appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioners is necessary, the trial court, at its wisdom, shall direct their appearance on those days.

10.06.2024

NCC : Yes / No
Internet:Yes/No
Index:Yes/no
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To

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Madurai.
2. The Food Safety Officer,
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Food Safety and Drug Administration Department,
Viswanathapuram,
Madurai-625 014
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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A.A.NAKKIRAN, J.

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