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Crl.O.P.(MD)No.15030 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:26.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD) No.15030 of 2022

and

Crl.M.P.(MD).Nos.9825 and 9826 of 2022

1.P.Venkatesan
2.M.Shanmugavel

... Petitioners

Vs.

1.The State rep.by
The Inspector of Police,
CSCID Police Station,
Virudhunagar District.
Crime No.24 of 2003.

2.S.Murugappan
Technical Assistant,
Department of Food and Consumer Protection,
District Supply Office,
Madurai.

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the Charge Sheet in C.C.No.182 of 2010 on the file of the Judicial Magistrate No.II, Ramanathapuram and quash the same as illegal.

For petitioners

: Mr.Ajmal Khan
for M/s.Ajmal Associates

For R-1

: Mr.P.Kottaichamy
Government Advocate (Crl.side)



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ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.182 of 2010 on the file of the learned Judicial Magistrate No.II, Ramanathapuram, against the petitioners.

2. The case of the prosecution is that the defacto complainant, viz., Murugappan, who is a Technical Assistant in Food Supply and Consumer Protection Department, has preferred a complaint against the petitioners before the first respondent Police stating that on 27.09.2002, the second respondent took sample of ground-nut oil from Sri Guru Shop belonging to the petitioners, situated at Paramakudi, as per Sections 3 and 5 of the Tamil Nadu Scheduled Articles (Prescription of Standards) Order, 1977 and the same was sent for analysis to the Laboratory, pursuant to which, the report of the Laboratory declared that the sample taken from the shop of the petitioners was substandard. Hence, a case was registered in Crime No.24 of 2003 for the offence punishable under Sections 3 and 5 of Tamil Nadu Scheduled Articles (Prescription of Standards) Order, 1977, r/w. Section 7(1)(a)(ii) of Essential Commodities Act, 1955 and after completion of investigation, the first respondent Police has filed a charge sheet before the learned



Judicial Magistrate No.II, Ramanathapuram and the same was taken on file in C.C.No.182 of 2010, for the offences punishable under Sections 3 and 5 of Tamil Nadu Scheduled Articles (Prevention of Standards) Order, 1977 r/w. Section 7(1)(a)(ii) of Essential Commodities Act, 1955. Challenging the same, the present petition has been filed.

3. The learned counsel appearing for the petitioners submits that the sample was taken on 27.09.2002 and it was sent for Laboratory on the same day. On 28.10.2002, a report was given by the Laboratory as if the sample taken from the shop of the petitioners was found to be substandard one and a complaint was given by the second respondent on 07.02.2003. However, the first respondent Police have filed the charge sheet only in the year 2010. As per Section 7(10) of the Tamil Nadu Scheduled Articles (Prescription of Standards) Order 1977, the period of limitation to file the charge sheet is 30 days from the date of receipt of the complaint and therefore, the first respondent Police ought to have filed the charge sheet on or before 09.03.2003. Hence, the charge sheet filed in C.C.No.182 of 2010 before the learned Judicial Magistrate No.II, Ramanathapuram is liable to be quashed on the ground of delay considering the period of limitation in filing the charge sheet.



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4. The learned Government Advocate (Criminal side) appearing for the first respondent Police submits 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 hence, he would pray to dismiss the present petition.

5. On 20.03.2024, when the matter was taken up for hearing, in order to verify the date of the complaint and the date of filing the charge sheet, this Court directed the Registry to call for the records from the trial Court.

6. Accordingly, records were produced before this Court today. A perusal of the records would reveal that the sample was taken from the shop of the petitioners on 27.09.2002 and it was sent for analysis to the Laboratory on the same day and the report was given by the Laboratory on 28.10.2002 stating that the sample was sub-standard, pursuant to which, the alleged complaint was made by the defacto complainant on 07.02.2003 before the first respondent Police, however, the first respondent Police has filed the charge sheet only in the year 2010, after a lapse of seven years, which is hit by laches.



7. In order to appreciate the contention of the learned counsel for the petitioner, it is worthwhile to refer here Section 7(10) of the Tamil Nadu Scheduled Articles (Prescription of Standards) Order 1977 and the same is extracted hereunder:

“on receipt of the analysis report from the appropriate Laboratory, the Competent Officer shall forward a copy of such report to the Authorised Officer within ten days from the date of receipt of such report and a copy of the same shall be forwarded to the person from whom the sample was received by Registered Post or by hand within ten days from the date of the receipt of such report by the Authorised Officer. If the analysis report reveals that the scheduled article is sub-standard, the Competent Officer, if he is not a Police Officer, shall file a complaint within the Police and the Police Officer shall file the charge sheet in the Court within thirty days from the date of receipt of such complaints. If the Competent Officer himself is a Police Officer, he shall file the charge sheet in the Court within thirty days from the date of receipt of the analysis report of the appropriate Laboratory.”

8. As per the above referred provision, if the Competent Officer is not a Police Officer, he shall file a complaint with the Police and the Police Officer, in turn, shall file the charge sheet within thirty days from the date of receipt of such complaint. In the present case, though the



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complaint was made by the second respondent as early as on 07.02.2003 before the first respondent Police, the first respondent Police has filed the charge sheet only in the year 2010, which is beyond the period of limitation of thirty days, which came to an end by 09.03.2003 and hit by laches, since as per the above referred provision, the first respondent Police has to file the charge sheet in the Court within thirty days from the date of receipt of the complaint. Hence, the impugned proceedings in C.C.No.182 of 2010 on the file of the learned Judicial Magistrate No.II, Ramanathapuram, is liable to be quashed.

8. Accordingly, this Criminal Original Petition is allowed and C.C.No.182 of 2010 on the file of the learned Judicial Magistrate No.II, Ramanathapuram is quashed against the petitioners alone. Consequently, connected miscellaneous petitions are closed.

26.03.2024

Index : Yes/No

Internet : Yes/No

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Note: Registry is directed to return the original papers to the Lower Court, after taking a Xerox copy of the same.



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To

- 1.The Judicial Magistrate No.II, Ramanathapuram.
- 2.The State rep.by
The Inspector of Police,
CSCID Police Station,
Virudhunagar District.
Crime No.24 of 2003.
- 3.S.Murugappan
Technical Assistant,
Department of Food and Consumer Protection,
District Supply Office,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI. J.

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