



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1773 OF 2022

PHILIP MOHAN WAIDANDE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for the Petitioner : Mr. A. D. Khot a/w Mr. Anand S. Deshpande

APP for Respondents-State : Mr. V. M. Chate

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CORAM : SACHIN S. DESHMUKH, J.

Date : 11th November, 2025

ORDER :-

1. The petitioner questions the order dated 05.04.2011 of issue process for the offences under Sections 7(i) read with section 2(ia)(a), 2(ia)(m) punishable under Section 16 and 17 of the Prevention of Food Adulteration Act, 1954, rendered by the learned Judicial Magistrate First Class, Corporation Court, Aurangabad (hereinafter "Trial Court" for short) below Exh. 1 in Summary Criminal Case No. 106 of 2011. The petitioner has also prayed for quashing the proceeding i.e. Summary Criminal Case No. 106 of 2011 pending before the Trial Court.

2. The petitioner / accused No. 1 was working with the M/s. Midows Hotels and Resort Pvt. Ltd as General Manger,

situated at Gat No. 135 and 136 of Mitmita Parisar, Aurangabad. The petitioner was also the Head of the hierarchical system which was used by the hotel management.

3. On 30.06.2010, the respondent No. 2 / complainant alongwith staff members visited the premises of the Hotel, conducted the inspection of the food and drew sample of food articles to be used for preparation of food.

4. Upon inspection, it was revealed that the acidity level of the synthetic vinegar did not satisfy the requisite percentage as mandated in the Prevention of Food and Adulteration Rules. Therefore, the respondent No. 2 presented the complaint against total 8 accused including present petitioner before the learned Judicial Magistrate First Class, Corporation Court, Aurangabad.

5. The learned Magistrate passed the order of issue process for the offences punishable under the provisions of Prevention of Food Adulteration Act, 1954. Aggrieved by the same, the petitioner has approached this Court by way of present writ petition under Article 227 of the Constitution of India read with Section 482 of Code of Criminal Procedure.

6. The learned counsel for petitioner submits that there is a mandatory provision which needs to be strictly adhered to by the Food Safety Officer and upon satisfaction of the same, the prosecution can be initiated against the accused persons. The report of the Analyst as required under Section 13(2) of the Act of 1954 is not furnished to the petitioner. In order to support of submissions, the learned counsel for petitioner has placed reliance on the verdict of Hon'ble Apex Court in the case of **Narayana Prasad Sahu Vs. The State of Madhya Pradesh (Criminal Appeal No. 1312 of 2021)**.

7. Per contra, the learned APP submits that the Food Inspector has filed the prosecution on the basis of sample report of Synthetic Vinegar, which is not in conformity with the statutory provisions under the provisions of the Act and Rules of Protection of Food Adulteration. Further submission is that the Food Inspector made an attempt to serve the present petitioner and in the process, the notice was served on the said establishment by communication dated 06.04.2011. Hence, prayed for rejection of the petition.

8. I have heard the learned counsel for litigating sides and perused the record made available.

9. It is a matter of record that this Court by its order dated 16.07.2018 in Writ Petition No. 1016 of 2016, has quashed and set aside the proceeding as against the other accused - Directors.

10. Apart from the aforesaid aspect, at this juncture, it is necessary to reproduce the Section 13(1) and 13(2) of the Act of 1954, which reads as under :

"13. Report of public analyst.—

(1) The public analyst shall deliver, in such form as may be prescribed, a report to the Local (Health) Authority of the result of the analysis of any article of food submitted to him for analysis.

(2) On receipt of the report of the result of the analysis under sub-section (1) to the effect that the article of food is adulterated, the Local (Health) Authority shall, after the institution of prosecution against the persons from whom the sample of the article of food was taken and the person, if any, whose name, address and other particulars have been disclosed under section 14A, forward, in such manner as may be prescribed, a copy of the report of the result of the analysis to such person or persons, as the case may be, informing such person or persons that if it is so desired, either or both of them may make an application to the court within a period of ten days from the date of receipt of the copy of the report to get the sample of the article of food kept by the Local (Health) Authority analysed by the Central Food Laboratory".

11. In the wake of mandate of the aforesaid provision and the verdict in the case of **Narayana** (supra), it was incumbent upon the concerned Authority to serve the report of Analyst to the accused as per the mandate of provisions of Section 13(2) of the Act of 1954. There is nothing on record to indicate and establish that the Food Inspector / concerned Authority has complied with Section 13(2) of the Act of 1954.

12. The Hon'ble Apex Court in **Narayana** (supra) has also held that mere dispatch of the Report of the Analyst to the accused is not a sufficient compliance with the requirement of Section 13(2) of the Act of 1954 and the report must be actually served on the accused so as to enable the accused to exercise the statutory right of seeking analysis by Central Food Laboratory. Thus, the contention for learned APP of having sought the address of the accused vide letter dated 06.04.2011 does not warrant any consideration, in absence of the fact that Report is actually served upon the petitioner.

13. Nonetheless, the Report of Analyst is to be made available under Section 13(2) of the Act of 1954 during the shelf life of the article. No material is placed on record to indicate and

establish the compliance in this regard.

14. In aforesaid view of the matter, the contention of the learned counsel for the petitioner that the provisions of Section 13(2) of the Act of 1954 were not complied with, will have to be accepted. As such, the petition deserves to be allowed and the proceeding needs to be quashed and set aside as against the petitioner.

15. Resultantly, the writ petition is **allowed** in terms of prayer clause **(B)** and **(C)**. The proceedings as against the petitioner in Summary Criminal Case No. 106 of 2011 stands quashed and set aside.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi