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CRL.O.P.No.1525 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2025

CORAM

THE HON'BLE Mr.JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.1525 of 2023

AND

CrI.M.P.Nos.863 & 864 of 2023

P.Tejraj

.. Petitioner

Vs.

The Food Safety Officer
Coimbatore Corporation Section, Code No. 563
Food Safety and Drug Administration Department
219, Race Course Road
Coimbatore - 641 018

.. Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records and quash the proceedings in S.T.C.No.5175 of 2020 on the file of the Judicial Magistrate Court No.V, Coimbatore insofar as the petitioner.

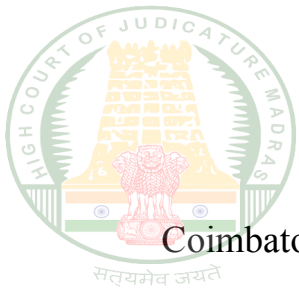
For Petitioner : Mr.M.Rajaraman

For Respondent : Mr.K.M.D.Muhilan

Government Advocate (CrI. side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.5175 of 2020 on the file of the Judicial Magistrate Court No.V



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2. The case of the prosecution is that on 28.06.2019, the complainant gone to Mahavir Nuts & Spices at No.32/32 Theosophical Society, Near Raja Veedi, Coimbatore with an intention to take food samples and at that time the petitioner/A-1 was selling the food items in his shop to general public. The complainant had enquired about Boiled Papaya Cubes in Sugar to the first accused and the complainant had purchased 1kg packets (Nos. 60) from the petitioner/A-1 and had taken samples of the said product and sealed the same in accordance with the procedure as contemplated under the Food Safety and Standards ACt 2006 and had sent the same to the Food analyst on 01.07.2019. The food analyst had tested the product from 01.07.2019 to 31.01.2020 and the food analyst had sent a report on 05.02.2020 stating that the sample had added color exceed the defined limit as unsafe. The report was sent to the petitioner/A-1 and the designated officer had sent a letter rejecting the appeal stating that the product had already lost its expiry. The complainant had sought for permission to file a case against the accused to the designated officer and the same was granted by the commissioner of Food Safety and hence, he has filed the above complaint before the Judicial Magistrate No.V Coimbatore under the provisions of Section 59 (i) of Food Safety and Standards



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Act, 2006 and 190(1)(A) and 200 C.P.C. Hence, the petitioner filed this petition to quash the proceedings in S.T.C No. 5175 of 2020 pending on the file of the Judicial Magistrate No.V, Coimbatore.

3. The learned counsel for the petitioner submits that as per Section 42 of the Food Safety and Standards Act, 2006, Food analyst ought to have analysed the sample and send the analysis report within 14 days to the designated officer. But, in the present case, sample had taken on 28.06.2019 and the Food analyst had analysed the sample from 01.07.2019 to 31.01.2020 and thereafter, issued report on 31.01.2020, which is contrary to the above Section which had deprived the petitioner's valuable to appeal as contemplated under Section 46(4) of the Food Safety and Standards Act, 2006. Further, as per rule 3.1.1 of the Food Safety and Standards rules, the prosecution shall be launched only after the procedure contemplated for filing appeal is over and hence, the present complaint filed depriving the petitioner herein of their right of appeal is not maintainable in law.

4. Heard both sides and perused the materials available on record.

5. The fact reveals that the complainant taken food sample on 28.06.2019



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and the Food analyst had analyzed the sample from 01.07.2019 to 31.01.2020 and

thereafter, issued report on 31.01.2020 as unsafe and sub-standard, against which, the petitioner preferred an appeal and the same was rejected by the appellate authority stating that the food item had already been expired. Therefore, the petitioner was not able send the food sample to referral laboratory owing to the delay on the part of the complainant/respondent. Admittedly, the sample analyst report was sent belatedly, due to which, the petitioner/A-1 has lost his right of appeal. Hence, this Court is inclined to quash the proceedings in S.T.C.No.5175 of 2020 pending on the file of the Judicial Magistrate Court No.V, Coimbatore and accordingly, it is quashed.

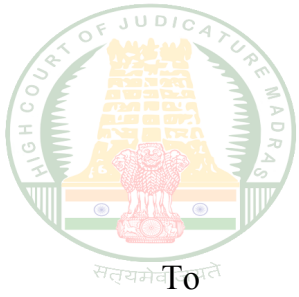
In the result, this petition is allowed. Connected Crl.M.P.s are closed.

19.02.2025

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Index : Yes/No

NC : Yes/No



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To

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1.The Food Safety Officer
Coimbatore Corporation Section, Code No. 563
Food Safety and Drug Administration Department
219, Race Course Road, Coimbatore - 641 018

2.Judicial Magistrate Court No.V
Coimbatore

3.The Public Prosecutor
High Court, Madras



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G.K.ILANTHIRAIYAN, J.

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