



CrI.O.P.No. 6594 of 2023

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.No.6594 of 2023 and
CrI.M.P.Nos.4128 and 4130 of 2023

1.Baskar

2.Rajan P.F

3.M/S IBACO – Hatsun Agro Product Limited

Represented by its Nominee

Mr.Rajan P.F

No.1/20A, Rajiv Gandhi Salai (OMR),

Karapakkam, Chennai 600 097.

... Petitioners

Vs

State represented by

Food Safety Officer

Adyar Area

Code No.550

Chennai District.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in respect of C.C.No.3769 of 2022 on the file of learned IX Metropolitan Magistrate, Saidapet, Chennai District and quash the same.



WEB COPY



CrI.O.P.No. 6594 of 2023

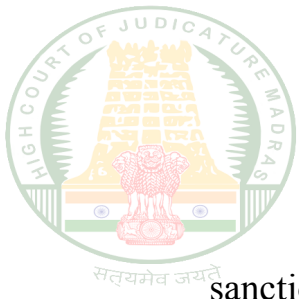
For Petitioners : Mr.N.Surya Senthil for
M/S Surana and Surana

For Respondent : Mr.R.Vinothraja,
Government Advocate (Crl.side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.3769 of 2022 on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai.

2. The case of the prosecution is that on 10.12.2020, at approximately 1.30 p.m, the respondent conducted an inspection at the premises of the third petitioner, namely M/S IBACO-HATSUN AGRO PRODUCTS LIMITED, situated at T-53B, 4th Main Road, Besant Nagar, Chennai – 600 090. During the inspection, the respondent found ice topping jelly mixture in two plastic covers, which bore the name "IBACO" and were permitted for use. Despite having sufficient quantity of the product to test a sample, the respondent collected two packets as samples. The samples were sent to the Food Analyst on 10.12.2020, and the analysis report was received on 17.09.2021. Based on the report,



CrI.O.P.No. 6594 of 2023

WEB COPY

sanction for prosecution was granted. According to the food analysis report, the percentage of total sugar and the percentage of reducing sugar to total sugar were below the prescribed limits, and the presence of an unauthorized artificial color, Carmoisine, was detected. Consequently, the respondent filed the complaint for violation of the Food Safety and Standards (Packaging and Labelling) Regulations, 2011, under Rule 2.2.1(7), 2.2.2(2), 2.2.2(3), 2.2.2(4), 2.2.2(5)(1), 2.2.2(5)(II)(a), 2.2.2(6), and 2.2.2(8). The charges were framed under Sections 52(1), 51, and 59(i) of the Food Safety and Standards Act, 2006 (hereinafter referred to as “Act”).

3. The learned counsel for the petitioners would submit that as per Section 42(2) of the Act, the sample should be analyzed and the analysis report must be sent within 14 days to the Designated Officer, with a copy to the Commissioner of Food Safety. However, the analysis report was sent only on 11.09.2021, which resulted in a delay of 9 months. The learned counsel further submits that as per Section 77 of the Act, no Court shall take cognizance of an offence under this Act after the expiry of one year from the date of the commission of the alleged offence. Since



CrI.O.P.No. 6594 of 2023

WEB COPY

the sample was taken on 10.12.2020 and the complaint was filed on 29.11.2022, the Trial Court ought not to have taken cognizance of the matter, as it is barred by limitation.

4. The respondent filed a counter-affidavit. The learned Government Advocate (CrI. Side) contends that though Section 42(2) of the Act stipulates a 14-day time frame for the submission of the analysis report, the Food Analyst had sought and obtained an extension of time from the concerned officer, the Commissioner of Food Safety, due to the exigencies posed by the Covid-19 pandemic. Therefore, the delay in submitting the report should be condoned. The learned Government Advocate (crl.side) further submits that despite the delay, the food analysis report confirms the violation of the Food Safety and Standards Act, 2006, and the relevant Rules and Regulations. Consequently, the petitioners are liable to be prosecuted under Sections 52(1), 51, and 59(i) of the Act.

5. Heard both sides and perused the materials placed before this Court.

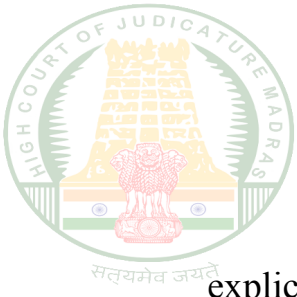


CrI.O.P.No. 6594 of 2023

WEB COPY

6. Admittedly, the food product, namely, ice cream topping jelly mixture, was seized from the petitioners' premises and the sample was taken on 10.12.2020. The product's expiry date was 10.01.2021. However, the sample was analyzed only after the expiry date of the product, and the analysis report was submitted on 11.09.2021. It is evident from the records that the sample was analyzed after the expiry date, which is in violation of the procedure prescribed under Section 42(2) of the Food Safety and Standards Act, 2006. According to the said provision, the Food Analyst is required to analyze the sample and send the analysis report within 14 days of receiving the sample. It is unclear why the food product was subjected to analysis from 28.12.2020 to 06.09.2021, a delay of almost 9 months. The law mandates that the sample be analyzed within 14 days to prevent the product from expiring.

7. That apart, the complaint was filed on 29.11.2022, more than two years after the alleged offence, which clearly exceeds the one-year limitation period prescribed under Section 77 of the Act. Section 77



CrI.O.P.No. 6594 of 2023

WEB COPY

explicitly bars the Court from taking cognizance of an offence after the expiry of one year from the date of the commission of the alleged offence.

8. In view of the above, the complaint itself is barred by limitation. As such, the Trial Court could not have taken cognizance of the offence. Hence, the entire proceedings in C.C. No. 3769 of 2022 on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai, is hereby quashed as against the petitioners.

9. Accordingly, this Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petitions are closed.

28.03.2025

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
shk



CrI.O.P.No. 6594 of 2023

WEB COPY

To

1. IX Metropolitan Magistrate, Saidapet, Chennai District

2. Food Safety Officer

Adyar Area

Code No.550

Chennai District.

3. The Public Prosecutor,
High Court, Madras.



WEB COPY



CrI.O.P.No. 6594 of 2023

G.K.ILANTHIRAIYAN. J.

shk

CrI.O.P.No.6594 of 2023 and
CrI.M.P.Nos.4128 and 4130 of 2023

28.03.2025