



Crl.O.P.(MD)No.1731 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 18.09.2025

PRONOUNCED ON : 22.09.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.1731 of 2024

and

Crl.M.P.(MD).No.1258 of 2024

1.M/s.Tej Ram Dharampaul Private Limited,
Nathupur, Sonipat,
Haryana – 131 029,
Represented by its Managing Partner,
Neeraj Kumar Singla.

2.Neeraj Kumar Singla

... Petitioners

Vs.

The Food Safety Officer,
Code No.281,
Keelapaur Circle,
Tirunelveli District.

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to quash the S.T.C No.317 of 2019 as against the petitioner on the file of the learned Judicial Magistrate, Alankulam, Tirunelveli District and all other connected proceedings.

For Petitioners : Mr.S.Sivakumar

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)



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ORDER

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This Criminal Original Petition is filed to quash a private complaint filed under Section 42(5) of the Food Safety and Standards Act, 2006 (hereinafter referred to as 'Act') for the alleged violations under Section 58 and 59(i) of the Act.

2. The allegation in the complaint is that the third and fourth accused, during a search on 08.09.2018, were found in possession of banned tobacco products; that the tobacco products were sent for analysis and it was found to contain nicotine, which is banned in Tamil Nadu; and that the first petitioner is the manufacturer of the said products and the second petitioner is its Managing Partner.

3. The learned counsel for the petitioners would submit that the petitioners even assuming is the manufacturer of the product at Haryana, where there is no ban to manufacture tobacco products, there is nothing on record that the petitioners had sold the banned tobacco products in Tamil Nadu; that the complaint is bereft of details as to whether the third and fourth accused had purchased the banned tobacco products at Haryana or it was sold by the petitioners in Tamil Nadu; that the first petitioner had originally a licence to



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manufacture and that in the year 2016, it became defunct and that in any case, in the absence of any evidence to show that the tobacco products were sold by the petitioners at Tamil Nadu, the impugned prosecution is liable to be quashed. In support of his submissions, the learned counsel relied upon the following judgments of this Court:

- (i) ***Manmohan Kumarpunia Vs. Food Safety Officer in Crl.O.P. (MD).No.3821 of 2022 dated 21.03.2024;***
- (ii) ***M/s.Tej Ram Dharam Paul Vs. The Government of Tamil Nadu, Crl.O.P.No.19829 of 2017 dated 19.01.2022;*** and
- (iii) ***M/s.S.S.Essence Private Limited Vs. State of Tamil Nadu, Crl.O.P.Nos.16293 of 2023 and batch dated 18.08.2023.***

4. The learned Government Advocate representing the respondent however would submit that the question as to whether the petitioners had sold the products in Tamil Nadu or whether the seller had purchased it through someone else, who in turn purchased from the manufacturer, cannot be adjudicated in a quash petition and hence prayed for dismissal of the petition.

5. The facts relating to the seizure of certain tobacco products from the third and fourth accused, who are running a shop in the name of Anitha Stores, cannot be disputed and is not disputed by the petitioners. It is the case of the



respondent that the products sold by the said Anitha Stores have been banned in Tamil Nadu. The petitioners also cannot dispute the fact that the tobacco products have been banned in Tamil Nadu. The only question is whether the petitioners have sold the banned products in Tamil Nadu or the third and fourth accused had purchased the same through a third party. The complaint does not state as to where the third and fourth accused had purchased the banned tobacco products. The respondent has therefore obviously not conducted any enquiry in this regard. In a similar prosecution against the first petitioner, this Court in the case of ***M/s.Tej Ram Dharam Paul Vs. The Government of Tamil Nadu*** in ***Crl.O.P.No.19829 of 2017 dated 19.01.2022*** had held as follows:

“6. Normally, this Court would be reluctant to interfere with the complaint, but at the same time when the materials relied upon by the prosecution, in the considered view of the Court, do not constitute any offence against the person and continuation of the prosecution is a sheer waste of time and futile exercise, this Court can very well exercise its power under Section 482 Cr.P.C. The charge against the petitioner itself indicates that some tobacco products were seized from A1, who is noway connected with the present petitioner. It is not the case of the prosecution that this product was supplied for sale in Tamil Nadu by the manufacturers. It is also brought to the notice of this Court that the sale and manufacture is not totally prohibited in some of the States. Therefore, the question remains whether the prosecution is maintainable if any such product is found in Tamil Nadu without



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establishing any nexus between the manufacture and sale. As discussed above, on perusal of the final report this Court finds that it is not the case of the prosecution that the manufacturer themselves has supplied the products for sale in Tamil Nadu. Only some unknown persons said to have supplied it. Therefore, in the absence of any nexus between sale and supply by the manufacturer and when the manufacturing of the product is permitted in other States, the manufacturer cannot be prosecuted, as if he has committed the offence, without any material. For example, manufacture of IMFL (Indian Made Foreign Liquor) is permitted in Puducherry and Puducherry liquor is totally prohibited in Tamil Nadu. If any such prohibited liquor is found in possession of somebody, this Court cannot presume that the manufacturer has committed any offence. The same analogy will be followed here.”

6. The above observations would squarely apply to the instant case also, since the respondent has not established any nexus between the petitioners and the sale said to have been made by the third and fourth accused in Tamil Nadu. A similar view was taken by this Court in the case of **Manmohan Kumarpunia Vs. Food Safety Officer** in **Crl.O.P.(MD).No.3821 of 2022 dated 21.03.2024** and in other cases as well. Therefore, in the absence of any definite averment/evidence that the petitioners had sold the banned substance in the State of Tamil Nadu, the continuation of the criminal prosecution against the



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petitioners would amount to an abuse of process of law and hence, liable to be quashed.

7. Accordingly, the impugned complaint in S.T.C.No.317 of 2019 against the petitioners herein is quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition stands closed.

22.09.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Lm

To

- 1.The Judicial Magistrate Court,
Alankulam, Tirunelveli District.
- 2.The Food Safety Officer,
Code No.281,
Keelapaur Circle,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

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