



Crl.O.P.(MD) No.1129 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	12.09.2025
Pronounced on	16.09.2025

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD) No.1129 of 2024
and **Crl.M.P.(MD) No.750 of 2024**

V.Pushkala

... Petitioner

Vs.

State rep. by
Food Safety Officer,
Code No.081,
Block Development Office Campus,
Kottaram, Agasteswaram Taluk,
Kanyakumari District – 629 702.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, 1973/Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for the records and quash all further proceedings in S.T.C.No.202 of 2022 on the file of the learned Judicial Magistrate, Boothapandy as far as this petitioner is concerned.

For Petitioner : Mr.V.Vijay Shankar
for Mr.J.Saravana Vel

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor



Crl.O.P.(MD) No.1129 of 2024

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ORDER

This Criminal Original Petition has been filed to quash the private complaint filed under Section 59(i) of the Food Safety and Standards Act, 2006 [for the sake of convenience, hereinafter referred to as 'FSS Act'].

2. The allegation against the petitioner is that she was working as a saleswoman in a proprietary concern, namely SVD Enterprises, run by the second accused; that on 14.09.2020, when the food safety officials went to the premises of the proprietary concern and conducted an inspection, they seized packaged drinking water (URA Packaged Drinking Water) and after complying with the formalities, sent the sample to the laboratory; that on 18.12.2020, the Food Analyst sent a report opining that the sample was unsafe under Section 3(1)(zz) of the FSS Act; that on 28.12.2020, a letter was sent to the second accused giving him an option to send the samples to the Central Laboratory in case he disputes the report of the Food Analyst within a period of 30 days; that the second accused did not exercise such an option; and that the petitioner and the second accused thus committed the aforesaid offences under Sections 3(1)(zz) and 59(i) of the FSS Act and Regulation 2.10.8 of the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011.



Crl.O.P.(MD) No.1129 of 2024

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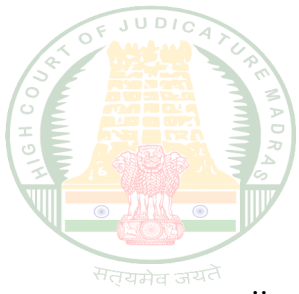
3. Mr.V.Vijay Shankar, the learned counsel for the petitioner, submitted that the impugned prosecution is liable to be quashed on the following grounds:

(i) The sample was taken by the Food Safety Officials on 14.09.2020 and was received by the Food Analyst on 16.09.2020. The Analysis Report was sent only on 18.12.2020, which is beyond the mandatory period of 14 days prescribed under Section 42(2) of the FSS Act.

(ii) The petitioner, who was working as a saleswoman in a proprietary concern belonging to the second accused, cannot be fastened with criminal liability. Even the Analyst Report was addressed only to the second accused. In the absence of any evidence to show that the offence committed by the second accused was abetted by, or done in conspiracy with, the petitioner, the impugned prosecution is misconceived and is liable to be quashed.

In support of his contention, the learned counsel for the petitioner relied upon the following judgments of this Court:

- i. ***R.Chndramohan Vs. Food Safety Officer and another***, reported in 2019 SCC OnLine Mad 13994.



Crl.O.P.(MD) No.1129 of 2024

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- ii. ***Amma Naana Departmental Stores and others vs. State of Tamil Nadu, rep. by its Food Safety Officer***, reported in 2020 SCC OnLine Mad 9099.
- iii. ***B.Srinivasan and others vs. The State rep. by Food Safety Officer***, dated 10.04.2023 rendered by this Court in Crl.O.P.No.34396 of 2019.
- iv. ***Max Hyper Market India Private Limited and others vs. Government of Tami Nadu rep. by Food and Safety Officer and others***, dated 14.07.2023 rendered by this Court in Crl.O.P.Nos.21076 & 21080 of 2022.
- v. ***Siva Foods vs. The Food Safety Officer, Ambasmuthiram Town***, dated 05.01.2022 rendered by this Court in Crl.O.P. (MD) No.22641 of 2018.
- vi. ***K.T.Venkates Raja and others vs. State by P.Sundararaj***, reported in 2023 SCC OnLine Mad 4480.

4. The learned Additional Public Prosecutor for the respondent, per contra, submitted that in view of the report of the Food Analyst, an offence has been made out, and that this Court, in a judgment in ***Ali Hemati, M/s. Paradise Food Court Private Limited vs. The Food Safety Officer, Code No.551, Velachery Zone, Chennai District***, dated 24.02.2023, rendered in Crl.O.P. No.31363 of 2022, had observed that though the report was not sent within 14 days and the analysis was done



Crl.O.P.(MD) No.1129 of 2024

after 243 days, since the sample was properly preserved in the manner required, the accused may not have any grievance.

5. The learned Additional Public Prosecutor for the respondent further submitted that, as regards the second submission, though the second accused is the sole proprietor of SVD Enterprises, since the petitioner was acting as the person in charge of SVD Enterprises and also as a saleswoman, she is also liable to be prosecuted, and therefore, the prosecution against the petitioner is justified.

6. This Court would deal with the second ground first. Even as per the complaint, the petitioner/first accused is referred to as a saleswoman and was present at the time of inspection when the sample was collected from the premises. The second accused is referred to as the sole proprietor of the concern. The letter enclosing the report of the Food Analyst was communicated only to the second accused. Admittedly, the report was never sent to the petitioner.

7. There cannot be any vicarious liability in criminal law unless it is specifically provided for under a statute. Section 66 of the Food Safety



Crl.O.P.(MD) No.1129 of 2024

and Standards Act, 2006, provides for vicarious liability of the Directors,

Managers, Secretaries or other officers of a company, if the offence is committed by the company and such persons are shown to be in charge of, and responsible for, the conduct of the business of the company at the relevant time. Since the present case relates to a proprietary concern, the said provision has no application. Merely because the petitioner was present at the time of inspection, or when the sample was collected from the concern, in her capacity as a saleswoman, she cannot be fastened with criminal liability unless there are specific allegations referring to the role played by her in the alleged offence said to have been committed by the proprietary concern/second accused.

8. As regards the first ground, in this case, the report of the Analyst was not sent to the petitioner as stated earlier. The petitioner, therefore, could not have exercised the option to have the sample tested by the Central Laboratory. Therefore, though the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent relied upon several judgments, since the respondent themselves had treated the second accused as the sole proprietor of SVD Enterprises and sent the report to him, the issue of violation of the mandatory provisions



Crl.O.P.(MD) No.1129 of 2024

would not arise for consideration while dealing with the case of the petitioner. This question is therefore left open.

9. In view of the answer to the second ground raised by the petitioner, this Court is of the view that the impugned prosecution as against the petitioner is liable to be quashed. Accordingly, the impugned prosecution as against the petitioner is quashed. This Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

16.09.2025

JEN

Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order/Non Speaking Order

Copy To:

- 1.The Food Safety Officer,
Code No.081,
Block Development Office Campus,
Kottaram, Agasteswaram Taluk,
Kanyakumari District - 629 702.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD) No.1129 of 2024

SUNDER MOHAN, J.

JEN

Pre-Delivery Order made
in
Crl.O.P.(MD) No.1129 of 2024

16.09.2025