



Crl.O.P(MD).No.16258 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2025

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

**Crl.O.P(MD).No.16258 of 2023 and
Crl.M.P(MD).Nos.12948 and 12949 of 2023**

1. Geetha
2. T. Rajasekaran
3.M/s. Vinayaga Traders,
rep. by its Partner Geetha

...Petitioners

..VS..

The Food Safety Officer,
Code No.501, Kovilpatti Municipality,
Old Taluk Building,
Kovilpatti,
Tuticorin District.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the charge sheet in S.T.C.No.1044 of 2022 on the file of the Judicial Magistrate I, Kovilpatti and quash the same.

For Petitioners	: Mr. M. Subash Babu Senior counsel for Mr.C.Susikumar
For Respondent	: Mr. A.S. Abul Kalaam Azad Government Advocate (Crl. Side)



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ORDER

This Criminal Original Petition has been filed to quash the charge sheet filed in S.T.C.No.1044 of 2022 on the file of the Judicial Magistrate I, Kovilpatti.

2. The case of the prosecution is that on 23.07.2019 at about 11.00 a.m., the respondent officials visited the shop of the first accused, purchased cumin packets weighing about 2 grams for a sum of Rs.420/- and thereafter sent the samples for food analysis on the same day. The Food Analyst submitted a report stating that the cumin was substandard, misbranded and unsafe for public consumption. Upon enquiry, it was revealed that A1 had purchased the cumin from the accused / petitioners herein, who are the manufacturers of the products. Hence, the complaint was lodged, the case was charge sheeted for offences under Sections 52(1), 61, and 63 of the Food Safety and Standards Act, 2006, in S.T.C. No.1044 of 2022 on the file of the Judicial Magistrate I, Kovilpatti.

3. The learned Government Advocate (Crl. Side) appearing for the respondent submitted that the offences alleged against the petitioners are



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serious in nature, further the grounds raised in the petition would indicate that the same can be proved only in trial and prayed for dismissal of the petition.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. The primary contention of the petitioner is that the respondent ought to have followed that the mandatory procedures contemplated under Sections 42(2), 42(3), and 47 of the Food Safety and Standards Act, 2006. As per sections 42(2) and 42(3), the samples received by the Food Analyst must be analysed and the report must be sent within 14 days from the date of receipt of samples, thereafter, the Designated Officer shall send his report within 14 days to the Commissioner of Food Safety for sanctioning the prosecution. However, in the present case, though the samples were sent on 23.07.2019, the report was received by the Designated Officer only on 25.08.2020, i.e., nearly after a period of one year and one month. Hence, on this ground the charge sheet is liable to be quashed. This Court is of the considered opinion, when the respondent has not followed the



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time line granted in the statutory provision, then the prosecution is liable to be quashed.

6. The next contention is that the section 42(3) states that the Designated Officer after scrutiny of the report of the Food Analyst shall send his recommendations within 14 days to the Commissioner of Food Safety for sanctioning prosecution. The respondent submitted that there is no timeline prescribed under the Act. But the petitioner had relied on the judgment dated 06.08.2020 rendered in Crl.O.P.No.774 of 2020 in the case of ***Irudhayanathan Vs. B. Ramakrishnan*** wherein the Court had held that the respondent failed to send his recommendation within period of 14 days from the date of receipt of food analysis report and the respondent did not follow the mandatory provision as contemplated under section 42(3) of the Food Safety and Standards Act, hence the complaint is liable to be quashed and quashed the same. In the said judgment there report was sent on 18.02.2015 and the recommendation was send on 18.08.2015. The Court held recommendation is not within 14 days, hence the complaint is liable to quashed. In the present case the report was on 25.08.2020, the sanction was granted on 17.10.2020, i.e. after two months. Further it is seen that the



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sanction was granted by the Commissioner on 07.02.2022 nearly after two years from the recommendation letter, which is beyond the time line prescribed under statute. Following the aforesaid judgment, this Court is of the considered opinion that the impugned complaint is liable to be quashed on this ground also.

7. The next contention is that the petitioner is being prosecuted under Sections 52(1) of the Food Safety and Standards Act, 2006. With respect to Section 52(1), the contention of the petitioners is that the alleged defects are only minor labelling defects of an insignificant nature. As per the proceedings of the Commissioner of Tamil Nadu Food Safety and Drug Administration, Chennai in R.No.5516/2018/ S9/FSSA dated 16.11.2018 such minor labelling defects are not liable for prosecution. The respondent had filed counter, wherein it is stated that the food analysis report had stated that the product confirm the food safety standards, but it is not labelled as per Regulation 2.2.2(8) of Food Safety Standards (Packing and Labelling) Regulation 2011, hence the case would come under “misbranded”. The respondent further stated that the said proceeding dated 16.11.2018 is applicable only for batch number exception for small scale



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sweets and savouries units which are sold in packets for immediate consumption and departmental stores and retail outlets which are doing repacking, all other food is not covered in this exemption. This contention of the respondent is unacceptable since it is misconception of the said circular dated 16.11.2018. The said Circular states as under:

***PROCEEDINGS OF THE
COMMISSIONER OF TAMIL NADI FOOD SAFETY AND
DRUG ADMINISTRATION, CHENNAI -600 006***

PRESENT : TMT. P, AMUDHA, I.A.S.,

R.No.5516/ 2018 / S9 / FSSA

Dated 16.11.2018

*Sub: FSSA - Labelling defects of insignificant nature
-Exceptions and mandatory cases - Orders issued - Regarding.*

*Ref:- 1. Letter File No. l(56) 2015/Advisory/ FSSAI (Pt-1) of
the Director; (Regulatory Compliance), FSSAI, Newdelhi.*

*2. Representations 03.09.2018, 07.09.2018, 10.09.2018,
11.09.2018, 11.09.2018, 17.09.2018, 03.10.2018,
04.10.2018, 06.10.2018 of Tamil Nadu Food Grains
Merchants ssociation Limited, Madurai.*

ORDERS:

*Based on the FSSAI Advisory cited in the first reference and
representations received from the Tamil Nadu Food Grains*



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Merchants Association, the Labelling defects of insignificant nature / Minor Labelling errors has been arrived at to guide Designated officers on exceptions and mandatory cases. Whereas all other Parameters mentioned in Food Safety and Standards (Packing & Labelling) Regulations 2011, shall be Mandatory.

Hence all the Designated Officers are instructed to take action under section 32 of Food Safety and Standards Act in cases involving labelling defects of insignificant nature/minor labelling defects which do not endanger food safety and dilute the standards. Copy of Exceptions and Mandatory cases for Minor Labelling defects /errors is enclosed. All Designated officers should act diligently and apply these exceptions from case to case after proper application of mind.

Commissioner of Food Safety

To

All the Designated Officers

Copy to

All FA, FALS

All APPs of Commissionerate. FAL Gunidy and Palayamkottai

All staffs of this office



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***Instructions on Labelling defects of insignificant Nature /
Minor Labelling Errors***

<i>S. No.</i>	<i>Minor Labelling Defects/ Errors</i>	<i>Exception for certain categories</i>	<i>Mandatory cases / categories</i>
<i>1</i>	<i>FSSAI License number not displayed on Label.</i>	<i>All categories other than Nutraceuticals, but having License.</i>	<i>1. Nutraceuticals 2. MSCs with Third Party Manufacturing Unit 3. Other Manufacturing units with Third Party Agency. 4. Imported Units.</i>
<i>2</i>	<i>Veg. or Non-Veg Symbol not displayed on Label</i>	<i>1. Small scale Sweets & Savouries units which resold in packets for immediate consumption. 2. Edible Vegetable Oil</i>	<i>1. Ghee & Vanaspathi 2. Nutraceuticals 3. Bakery Items 4. Ice Creams</i>
<i>3</i>	<i>Nutritional Fats not displayed on Label</i>	<i>1. Small Scale Sweets & Savouries units which are sold in packets for immediate consumption, 2. Single ingredient foods</i>	<i>1. Nutraceuticals 2. Biscuits 3. Dieting Supplements 4. Milk & Milk Products other than Sweets</i>



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4	<i>Ingredients not displayed on Label</i>	<i>1. Single Ingredients food. 2. Small scale Sweets & Savouries units which are sold in packets for immediate consumption.</i>	<i>All Compound Ingredients Foods other than listed in column (b)</i>
5	<i>Lot / Batch Number not displayed on Label</i>	<i>1. Small scale Sweets & Savouries units which are sold in packets for immediate consumption. 2. Repacking by Departmental Stores and Retailer outlets.</i>	<i>1. Neutraceuticals 2. All other Food</i>

All other Parameters mentioned in Food Safety and Standards (Packing & Labelling) Regulations 2011, shall be made mandatory.

In the said circular under serial number 5, it covers two categories, one is small scale sweets and savouries units which are sold in packets for immediate consumption and the other one is repacking by departmental stores and retailer outlets. The respondent is mixing both into one and misconstruing the said serial number. The second category would apply to



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the petitioner. In fact in the counter the respondent states

“that the petitioner is not a departmental stores and (but) actually doing repacking the spices by major scale”

This would clearly indicate that the petitioner is doing in large scale packing business but in small packets, in short the petitioner is doing retail packing in whole sale. In order to attract the benefits of exemption from the above circular, it is enough that the person is doing wholesale business and retail business. The concept is to given exemption from labelling if it is in small packets. Further as rightly pointed out by the petitioner section 52(1) is not attracted, as the alleged defects do not endanger food safety nor dilute the prescribed standards.

8. The next contention of the petitioner is that the section 61, and 63 of the Food Safety and Standards Act, 2006 are also not applicable, since the petitioners are licensed as wholesale-cum-retail sellers. It is seen from the records that the petitioners were issued a licence for the year 2017–2018 and have periodically renewed the same. Though the prosecution contends that the document produced by the petitioners does not show the



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licence continuously from 2017–2018, it is seen that the license was renewed. But the prosecution states that the petitioner had obtained retail license, in the later years the petitioner had obtained wholesale licence. The petitioner was having license for all the years, either whole sale or retail. Therefore, this Court is of the considered opinion that the petitioners were holding a valid licence as wholesale/retail traders. As stated in the counter and as referred supra the petitioners are doing repacking in large scale, hence he is covered under wholesale and retail. Therefore the above two section are not attracted based on the circular, where it has given exemption.

9. This Court is of the considered opinion by initiating action to such trial issues, that too such issues are exempted under the respondents own circular, the prosecution is failing to concentrate on real issues.

10. In view of the above discussion, this Court is of the considered view that the continuation of prosecution against the petitioners would amount to an abuse of the process of law. Hence, the charge sheet is liable to be quashed.



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11. Accordingly, the proceedings in S.T.C. No.1044 of 2022 on the file of the Judicial Magistrate I, Kovilpatti, are hereby quashed, and this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petitions are closed.

27.11.2025

Index:Yes/No
Internet:Yes/No
trp

To

1. The Food Safety Officer,
Code No.501, Kovilpatti Municipality,
Old Taluk Building,
Kovilpatti,
Tuticorin District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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S. SRIMATHY, J.,

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