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CRL OP No. 4094 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-03-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

Crl. OP No. 4094 of 2023

and

Crl. MP Nos. 2573 & 2574 of 2023

Sivasankaran Sivakumar
S/o. Late. Arunachalam Sivasankaran,
Chief Financial Officer,
Tata Consumer Products Ltd.,
(previously Known As Tata Global Beverages
Limited)
Having Office at 4th Floor, Block C,
Kirloskar Business Park, Hebbal,
Bangalore- 560024.

..Petitioner

Vs

S.Baskaran
The Food Safety Officer,
Wallajahpet District,
Vellore.

..Respondent

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the proceedings pending on the file of the Judicial Magistrate No.II, Wallajahpet in S.T.C.No.208 of 2016 in Charge Sheet No.1 of 2016 filed by the respondent herein and quash the same.

For Petitioner :

Mr.G.Karthikeyan,Senior Counsel
for M/s. A. Jagadeeswari

For Respondent :

Mr.A.Gopinath
Government Advocate (Crl.Side)



ORDER

This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.208 of 2016 on the file of the Judicial Magistrate No.II, Wallajahpet.

2.The petitioner is the accused in the complaint lodged by the respondent for the offence punishable under Section 59(1) of the Food Safety and Standards Act 2006, alleging that on 24.06.2015, at about 11.45 a.m., the respondent drawn samples from the shop by name Rajeswaran Traders in respect of TATA Tea Chakra Gold 250 grams packet (hereinafter referred to as “product”). Subsequently, it was sent for Food Analyst for analysis. On receipt of the said report found that the said product is unsafe to consume. Subsequently, the second report was also obtained by the appeal to the Central Laboratory that the food is unsafe. After accorded the sanction of prosecute the petitioner, the respondent filed a complaint.

3.The learned Senior Counsel appearing for the petitioner raised grounds that the respondent violated the provision under Section 42(3) of the Food Safety and Standards Act, 2006. It clearly shows that after receipt of the Food Analyst report, the Designated Officer shall sought for sanction within 14 days from the date of receipt of the Food Analyst report. However, the Designated Officer sought for sanction only after a period of 11 months from



the receipt of the Food Analyst report. According to Rule 2.4.1 (14) of the Food Safety and Standards Rules 2011, the sample shall be drawn for food material not less than 500 grams. In the case on hand, the Food Safety Officer had sent 250 grams product and it is a clear violation of law. Further, the complaint filed only after one year from the date of commission of offence. It is a clear violation of the provision under Section 77 of the Food Safety and Standards Act, 2006.

4. On instructions, the learned Government Advocate (Crl.Side) appearing for the respondent submitted that sanction for prosecution was carried belatedly due to administrative reason. Therefore, it can be condonable and provisions of Section 77 is clearly permit the Sanctioning Authority to accord sanction belatedly for the administrative reason. Insofar as the sample is required under Rule 2.4.1(14) Rules, 2011 is concerned, he produced the manual on general guidelines on sampling of 2016 issued by the Food Safety and Standards Authority of India, Ministry of Health and Family Welfare, Government of India, New Delhi. Accordingly, before the amendment i.e., before 2016, the samples shall be only 200 grams of any food products. Therefore, it is not a violation of Rule 2.4.1 (14) of the Food Safety and Standards Rules, 2011. He also submitted that the provision under Section 46(3) says that the Food Analyst shall submit a report within a period of 14 days from the date of receipt of any sample for analysis. However, the provision



clearly says that if the Food Analyst could not able to send the report within a period of 14 days, he can very well inform the same to the Designated Officer and Commissioner of Food Safety by giving valid reason and **by giving subjected time taken by the Analyst report. Therefore, the said delay cannot be quashed the entire proceedings.**

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

6. A perusal of the records reveals that according to Section 42(2) of the Food Safety and Standards Act, 2006, the sample analysis report of the food report within 14 days from the date of receipt of the sample. It is relevant to extract the provision under Section 42(2) of the Food Safety and Standards Act, 2006, which reads as follows :

“42(2) - The Food Analyst after receiving the sample from the food Safety Officer shall analyse the sample and sent the analysis report mentioning method of sampling and analysis within fourteen days to Designated Officer with a copy to Commissioner of Food Safety.”

7. In the case on hand, admittedly, the sample was sent to the Food Analyst on 24.06.2015 and the Food Analyst report on 20.07.2015. Thereafter, the Designated Officer recommended and sought for sanction to initiate



prosecution as against the accused only on 15.06.2016 i.e., after a period of 11 months from the date of receipt of the Food Analyst report. There is absolutely need for sending the Food Analyst report for seeking sanction to prosecute the accused. Though the Food Analyst submit a report after expiry of the report the provision to seek extension of time to submit Food Analyst report. Further Rule 2.4.1 (14) of the Food Safety and Standard Rules, 2011, is very clear that the quantity of the food samples prescribed as 500 grams as per the Regulations 2.3.1 (S.No.32) of the Food Safety and Standards (Laboratory and Sample Analysis) Regulations, 2011. In the case on hand, the Food Safety Officer had sent only 250 grams samples i.e., TATA Tea Chakra Gold (250 grams) packet, to the Food Analyst for analysis. It is a clear violation of Rule 2.4.1 (14) of the Food Safety and Standard Rules, 2011 and the Regulations 2.3.1 (S.No.32) of the Food Safety and Standards (Laboratory and Sample Analysis) Regulations, 2011. There is absolutely no explanation by the prosecution to collect the sample less than 500 grams. Finally, the complaint ought to have filed within a period of one year from the date of commission of the offence. It is relevant to extract the provision under Section 77 of the Food Safety and Standards Act 2006, which reads as follows :

“77. Time limit for prosecution – Notwithstanding anything contained in this Act, no Court shall take cognizance of an offence under this Act after the expiry of the period of one year from the date of commission of an offence.

Provided that the Commissioner of Food Safety may, for



reasons to be recorded in writing, approve prosecution within an extended period of upto three years.”

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8. Admittedly, the samples were taken by the respondent on 24.06.2015. The charge sheet was filed only on 16.12.2016 i.e. after a period of one year and five months from the date of the alleged commission of offence. Though the provisions of Section 77 of the Food Safety and Standards Act 2006, says that the Commissioner of Foods Safety made for reasons to be recorded in writing, approve prosecution within an extended period of upto three years. Though the communication dated 30.09.2016 says about the sanction of prosecution with delay due to administrative reasons, the prosecution has sanctioned belatedly which lodged condoned. The respondent failed to state any valid reasons for the delay in sending the sanction to lodge prosecution.

9. The said proviso has been enacted with the object that due to some unavoidable reasons, there might be some delay occurred in launching the prosecution and in such circumstances, for the reasons to be recorded in writing, the sanctioning authority may approve the prosecution. However, the sanctioning authority in the case on hand without stating any reason whatsoever, even though the authority has stated that due to administrative reason, without explaining the reason for the delay. Therefore, the entire prosecution initiated



as against the petitioner cannot be sustained for the above reasons and the entire proceedings are liable to be quashed.

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10. In view of the above, the proceedings in S.T.C.No.208 of 2016 on the file of the Judicial Magistrate No.II, Wallajahpet, is hereby quashed. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

06-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

LPP

To
The Food Safety Officer,
Wallajahpet District,
Vellore.



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G.K.ILANTHIRAIYAN J.

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