



Crl.OP(MD)No.14768 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 27.02.2026

PRONOUNCED ON : 01.06.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.14768 of 2024

S. Kartheesan

... Petitioner/Accused

Vs.

The Union of India,
Through the Food Safety Officer,
Southern Railway,
Railway Hospital,
Arasaradi,
Madurai-16.

.... Respondent / Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records in connection with the private complaint vide S.T.C No. 1745 of 2023 on the file of the learned Judicial Magistrate, Palani, Dindigul district and subsequently quash the same as devoid of merits.

For Petitioner : Mr.S.Palani Velayutham

For R-1 : Mr.M.Sakthi Kumar,
Government Advocate (Crl. side)



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For R-2 : Mr.S.Poornachandran

ORDER

This Criminal Original Petition has been filed seeking to quash the private complaint in S.T.C.No.1745 of 2023 pending on the file of the learned Judicial Magistrate, Palani. The petitioner is arrayed as one of the accused, being the manufacturer of the packaged drinking water alleged to be substandard and unsafe under the provisions of the Food Safety and Standards Act, 2006.

Case of the prosecution:

2. The case of the prosecution, as could be discerned from the complaint, is that on 20.10.2022, the Food Safety Officer conducted an inspection at Platform No.1, Palani Railway Station, and purchased 16 bottles of packaged drinking water branded as “VVM Aqua” from a salesperson for analysis.

3. The samples were drawn and divided in accordance with the statutory procedure and forwarded for analysis. The Food Analyst,



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Guindy, reported that the sample was substandard and unsafe within the meaning of Sections 3(1)(zx) and 3(1)(zz)(iii) of the Act.

4. At the instance of the petitioner, the second sample was sent to the Referral Food Laboratory, Pune, which also returned an adverse report. Based on the said reports, a complaint came to be filed implicating the seller, licensee, and the manufacturer.

Grounds for quash:

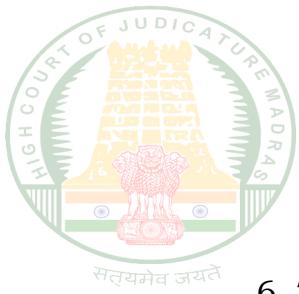
5. The petitioner seeks quashment primarily on the following grounds:

(i) The prosecution is barred by limitation under Section 77 of the Food Safety and Standards Act, 2006.

(ii) There is non-compliance with mandatory procedural safeguards in sampling and forwarding of the samples.

(iii) There are discrepancies between the analyst reports raising serious doubt regarding the integrity of the sample.

(iv) The prosecution has been launched mechanically without proper application of mind.



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6. The respondent contends that:

(i) The offence involves public health and cannot be lightly interfered with.

(ii) The Referral Laboratory report is final and conclusive under Section 46(4) of the Act.

(iii) The question of limitation is a mixed question of fact and law.

(iv) The procedural requirements have been substantially complied with.

Arguments on either side:

7. The learned counsel for the petitioner would submit that the complaint itself discloses that the offence is alleged to have taken place on 20.10.2022, whereas the complaint has been filed beyond the statutory period prescribed under Section 77 of the Act, without any valid extension or condonation.

8. Per contra, the learned Government Advocate would contend that the delay, if any, is attributable to the time consumed in



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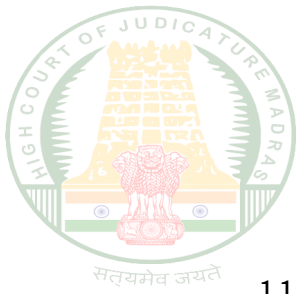
obtaining the Referral Laboratory report and the same would not vitiate the prosecution.

Point for consideration:

9. The point that arises for consideration is whether the prosecution in S.T.C.No.1745 of 2023 is vitiated on account of limitation and procedural non-compliance, warranting interference under Section 528 BNSS?

Analysis:

10. At the outset, this Court is conscious of the settled principle that the inherent powers under Section 528 BNSS are to be exercised sparingly, particularly in matters involving factual adjudication. However, where a legal bar is apparent on the face of the record, this Court would be justified in exercising such jurisdiction.



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11. Section 77 of the Food Safety and Standards Act, 2006 mandates that no Court shall take cognizance of an offence after the expiry of one year from the date of commission of the offence, unless the Commissioner of Food Safety approves prosecution within an extended period of up to three years, for reasons to be recorded in writing.

12. In the present case, the date of sampling is 20.10.2022. The complaint, however, has been filed beyond the period of one year. Significantly, there is no material placed before this Court to demonstrate that the competent authority has recorded reasons for extension of limitation in terms of the proviso to Section 77.

13. The requirement of recording reasons for extension is not an empty formality but a substantive safeguard against arbitrary prosecution. The absence of such compliance strikes at the very root of the prosecution. Though the respondent seeks to justify the delay on account of the referral analysis, such administrative delay cannot



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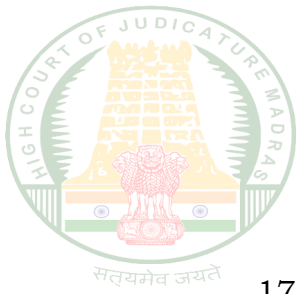
override the statutory mandate. The law of limitation, particularly in penal statutes, must be strictly construed.

14. Further, this Court finds that certain procedural safeguards relating to the handling and transmission of samples have not been demonstrated to have been scrupulously followed. The sanctity of the sample forms the foundation of the prosecution, and any doubt in that regard enures to the benefit of the accused.

15. The Hon'ble Supreme Court in ***State of Haryana v. Bhajan Lal***¹ has categorically held that where a legal bar to the institution or continuance of proceedings is evident, the High Court would be justified in quashing such proceedings.

16. In the present case, the bar of limitation under Section 77 is clearly attracted, and the continuation of the prosecution would amount to an abuse of process of law.

¹ 1992 Supp(1) SCC 335



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17. While the objective of the Food Safety and Standards Act is to safeguard public health, such objective must be pursued within the framework of law. Procedural safeguards and limitation provisions are not mere technicalities but integral to a fair criminal process. Permitting a prosecution to continue in the teeth of a statutory bar would erode the rule of law and undermine procedural discipline.

18. In the result, this Criminal Original Petition is allowed, and the proceedings in S.T.C.No.1745 of 2023 on the file of the learned Judicial Magistrate, Palani, Dindigul District, are hereby quashed. Consequently, the connected miscellaneous petition is closed.

01.06.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Sml

To

1. The Food Safety Officer,
Southern Railway,
Railway Hospital,
Arasaradi,
Madurai-16.



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



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L.VICTORIA GOWRI, J.

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