

Shiras S vs State Of Kerala on 11 August, 2022

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
THURSDAY, THE 11TH DAY OF AUGUST 2022 / 20TH SRAVANA, 1944
CRL.MC NO. 5410 OF 2022

CC 1203/2015 OF JUDICIAL MAGISTRATE OF FIRST CLASS -II,NEDUMANGAD
PETITIONER/ACCUSED NO.1 TO 3:

- 1 SHIRAS S.
S/O SHUKK00R,
VAL;AVILPUTHENVEEDU
NEDUMANGAD, , PIN - 695541
- 2 K.A JOHNY
S/O ANTONY ,LICENSEE
TRICHUR TEA AGENCIES,
BAZAR ROAD, MATTACHERRY,
KOCHI-682006, ERNAKULAM
RESIDING AT 6-15, KOCHI CORPORATION
- 3 M/S. TATA COFFEE LTD
POLLIBETTA, SOUTH KODAGU,
KODAGU, KARANATAKA - 570215
PERSON IN CHARGE, HEAD OFFICE
TATA COFFEE LTD, POLLIBETTA,
KODAGU, KARNATAKA
NOMINEE UNDER FSS ACT

BY ADVS.
ADV SHARAN SHAHIER
ADV P.BENNY THOMAS
ADV ABEL TOM BENNY

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, KOCHIN, PIN - 682031
- 2 THE FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA
SCIENCE AND STANDARDS (S&S) DIVISION,
FBA BHAVAN, KOTLA ROAD,
NEW DELHI - 110002
REPRESENTED BY ITS JOINT DIRECTOR

CRL.MC NO. 5410 OF 2022

3 THE FOOD SAFETY OFFICER,
NEDUMANGAD CIRCLE
TRIVANDRUM - 695541

BY ADVS.
ADV SREEJ V. -PUBLIC PROSECUTOR
ADV SANTHAN V.NAIR
ADV CHITHRA P.GEORGE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 11.08.2022, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:

CRL.MC NO. 5410 OF 2022

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ORDER

The petitioners are the accused Nos.1 to 3 in C.C. No.1203/2015 pending before the Judicial First Class Magistrate Court II, Nedumangad. The prosecution was launched on the basis Annexure A complaint submitted by the 3rd respondent alleging violation of Section 3(1)(zz)(xii), Section 26(1) & (2) (i), and Section 59(i) of the Food Safety and Standards Act read with Regulation 2.10.1(1) of the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011 and any other relevant Sections/Rules/Regulations thereunder.

2. The main allegation against the petitioner is that, the tea sold by the petitioner was found to be adulterated as it contained iron fillings beyond the permissible limits. This Crl.M.C. is filed for quashing all further proceedings pursuant to Annexure A complaint.

3. Heard Sri.Benny P. Thomas, learned counsel for the petitioner, Smt.Sreeja V., learned Public Prosecutor for the State and Smt.Chithra P. George, learned counsel appearing for the CRL.MC NO. 5410 OF 2022 respondents 2 and 3.

4. The specific contention put forward by the learned counsel for the petitioner is that, as per Annexure B Circular issued by the Food Safety and Standards Authority of India, the prosecution in all cases with the aforesaid allegations, cause of action of which arose prior to 19.05.2016, were directed to be withdrawn. The reason for the same is that, even though the permissible limit of iron filling in the tea was fixed at the relevant time, there was no recognized mechanism for assessing the quantity of the same. The learned counsel also brought my attention to the Annexure C order passed by this Court, wherein this Court quashed a similar prosecution by placing reliance upon Annexure B circular.

5. After hearing both sides and perusing the records, I am of the view that, the issue is covered by Annexure C order which in turn was passed by placing reliance on Annexure B. The facts which lead to the filing of Annexure A complaint is exactly same and therefore, the proceedings initiated against the petitioners is CRL.MC NO. 5410 OF 2022 liable to be quashed.

In such circumstances, this Crl.M.C. is allowed and Annexure A complaint and all further proceedings in C.C. No.1203/2015 on the file of Judicial First Class Magistrate Court - II, Nedumangad are hereby quashed.

Sd/-

ZIYAD RAHMAN A.A. JUDGE scs CRL.MC NO. 5410 OF 2022 PETITIONER ANNEXURES
Annexure A CERTIFIED COPY OF THE COMPLAINT PREFERRED BY THE 3RD RESPONDENT
BEFORE THE HONOURABLE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT -

II ,NEDUMANGAD IN C.C NO 1203/2015 Annexure B A TRUE COPY OF THE ORDER DATED
02.11.2017 ISSUED BY THE 2NDRESPONDENT IN THE MATTER OF IRON FILLINGS IN TEA
Annexure C A TRUE COPY OF THE ORDER PASSED BY THIS HON'BLE COURT IN CRL. M.C NO.

7902 OF 2017 DATED 14/2/2018