

Liyakathali K.P vs State Of Kerala on 29 August, 2022

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

Monday, the 29th day of August 2022 / 7th Bhadra, 1944

CRL.MC NO. 4508 OF 2022

ST 268/2020 OF JUDICIAL MAGISTRATE OF FIRST CLASS-I,MANJERI, MALAPPURAM
PETITIONER/ACCUSED:

LIYAKATHALI K.P. AGED 38 YEARS S/O. ALI K.P., KIZHAKKUMPARAMBIL
HOUSE, PULLOOR, KARUVAMBRAM P.O., MANJERI, MALAPPURAM , PIN - 676123

RESPONDENTS/STATE & APPLICANT:

1. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM, KOCHI, PIN - 682031
2. THE FOOD SAFETY OFFICER, MANJERI CIRCLE, OFFICE OF THE FOOD SAFETY OFFICER, PADMASREE BUILDING, NEAR TOWN HALL, MANJERI MALAPPURAM, PIN-676 121.
3. ADDL. R3, FOOD SAFETY AND STANDARDS AUTHORITIES OF INDIA

This Criminal misc. case coming on for order upon perusing the petition and upon hearing the arguments of Mr. K.RAKESH, Advocate for the petitioner and the Public Prosecutor for R1 and R2 and of Mr. SANTHAN V NAIR, Advocate for R3, the court passed the following:
ZIYAD RAHMAN A.A., J.

Crl. M.C. No.4508 of 2022

Dated this the 29th day of August, 2022

ORDER

Admit.

2. The learned Public Prosecutor takes notice for 1 st and 2nd respondents. Food Safety and Standards Authorities of India is suo motu impleaded as the additional 3rd respondent.
3. The petitioner is directed to serve a copy of this Crl.M.C. to the Standing Counsel for Food Safety and Standard Authorities of India. Show the name of the Standing Counsel in the cause list.
4. This Crl.M.C. is filed challenging the prosecution initiated against the petitioners under the provisions of Food Safety and Standards Act, 2006. The main contention put forward by the petitioner is that, the sample was tested in a laboratory which is not having recognition and accreditation as contemplated under Section 43 of Food Safety and Standards Act, 2006.

5. On perusal of the records, I find a prima facie case in favour of the petitioner. Therefore, there shall be an interim order staying all further proceedings in S.T. No.268/2020 before the Judicial First Class Magistrate's Court-I, Manjeri, for a period of three months.

6. It is pointed out by the learned Additional DGP that, even though the Act came into force in the year 2006, even now, Food Authority has not notified any Food Laboratories or Research Institutions in Kerala for the purpose of compliance of Section 43 of the Act. I am of the view that, the failure in granting accreditation and recognition as contemplated under Section 43 of the Act, would cause serious prejudice to the prosecuting agencies in enforcing the provisions of Food Safety Act and thus purpose of the Act will get defeated.

7. Therefore, the respondents are directed to file a statement as to the steps so far taken for getting the laboratories and research institutions in the State accredited and recognised in tune with Section 43 of the Act and also the stages of the same. In case, no steps have been taken so far urgent measures in this regard has to be taken. The Statement in this regard shall be submitted within a period of one month from today.

Post after one month.

Sd/-

ZIYAD RAHMAN A.A. JUDGE ncd/29.08.2022 29-08-2022 /True Copy/ Assistant Registrar