

Dharmendra Hansraj Kotak & Ors vs State Of Delhi & Anr on 18 January, 2023

Author: Amit Sharma

Bench: Amit Sharma

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IN THE HIGH COURT OF DELHI AT NEW DELHI

CRL.M.C. 328/2023 & CRL.M.A. 1303/2023 (stay-Proceeding

DHARMENDRA HANSRAJ KOTAK & ORS.

Through: Mr. Rajesh Batra, Ms. S
& Mr.Rohit Chandra, Adv

Versus

STATE OF DELHI & ANR.

Through: Mr. Aman Usman, APP for

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

% 18.01.2023 CRL.M.A. 1302/2023 Exemption Exemption allowed, subject to all just exceptions. The application is disposed of accordingly. CRL.M.C. 328/2023 & CRL.M.A. 1303/2023 (stay) The present petition under Section 482 Cr.P.C. seeks quashing of impugned order dated 11.01.2016, passed by Ms. Priya Mahendra, learned Additional Chief Metropolitan Magistrate-II, Patiala House Courts, Delhi, taking cognizance of the complaint dated 20.11.2015, in case titled „Food Safety Officer vs. Virender Narula and Others in Criminal Case No. 56/2015 (renumberd as CR Case 54118/2016) under Sections 20, 23(1), 26(1), 26(2)(i), 26(2)(ii), 27(1) and 27(2)(c) of the Food Safety & Standards Act read with Section 3(l)(zf)(A)(i), 3(l)(zf)(B)(ii), 3(l)(zf)(C)(i) and 3(1)(zz)(xi)(xii) of The Food Safety & Standards Act alongwith regulations 2.3.1.5 and 2.4.5.18 of the Food Safety & Standards Regulations, 2001, punishable under Section 52 and Section 59(i) of the Food Safety & Standards Act, 2006.

Learned counsel appearing on behalf of the petitioners submits that the samples in the present case were taken on 25.05.2015, and were tested by Food Analyst, Delhi, which is not an accredited laboratory as per notification dated 01.04.2015, under Section 43 of Food Safety and Standards Act, 2006.

Learned counsel for the petitioners relies upon a judgment of the Hon ble High Court of Bombay, titled „Nestle India Limited v. Food Safety and Standards Authority of India, 2015 SCC OnLine Bom 4713: (2015) 6 AIR Bom R 74 : AIR 2016 (NOC 255) 98, wherein in para no-118, it has been held as under:

"...(b) Secondly, we have held that the Food Laboratories where the samples were tested were not accredited and recognized laboratories as provided under the Act and Regulations for testing presence of lead and therefore no reliance could be placed on the said results....."

Issue notice.

Learned APP for the State accepts notice on behalf of the respondents and seeks some time to file a response. Let the same be filed before the next date of hearing.

In the meantime, the proceedings qua the present petitioners shall remain stayed till the next date of hearing.

List on 01.03.2023.

Order be uploaded on the website of this Court forthwith.

AMIT SHARMA, J JANUARY 18, 2023/bsr