

G.Kamaraj vs State Rep.By on 29 January, 2024

Author: N.Anand Venkatesh

Bench: N.Anand Venkatesh

Crl.O.P.No.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2024

CORAM

THE HONOURABLE MR JUSTICE N.ANAND VENKATESH

Crl.O.P.No.2722 of 2023
and Crl.M.P.Nos.1587 and 1589 of 2023

G.Kamaraj

... Petitioner

Vs.

State rep.by
Food Safety Officer,
Code No.061,
Kodumudi Block,
Tamil Nadu Food Safety and
Drug Administration Department,
Government Hospital Complex,
Erode 638 102.

... Respondent

PRAYER : Criminal Original Petition has been filed under Section 48 Cr.P.C. to call for the records in C.C.NO.28 of 2019 on the file of District Munsif cum Judicial Magistrate, Kodumudi and to quash the

For Petitioner	: Mr.P.Kannan Kumar
For Respondent	: Mr.A.Gopinath Government Advocate (Crl.Sid

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<https://www.mhc.tn.gov.in/judis>

Crl

ORDER

This petition has been filed challenging the proceedings in C.C.No.28/2019, on the file of the

District Munsif cum Judicial Magistrate, Kodumudi.

2. When the matter came up for hearing on 09.02.2023, this Court passed the following order:

"Heard the learned counsel for the petitioner.

2. The submission of the learned counsel for the petitioner is that the Food Analyst has to analyze the sample within 14 days from the date of receipt of the sample for analysis and submit a report. There was delay in analysing the sample and submitting the report. Next submissions is that, though samples were taken on 29.03.2013, the complaint was filed before the learned Judicial Magistrate only on 24.11.2017, beyond the period of one year limitation. Therefore, this complaint.

3. Learned Government Advocate (crl.Side) prays for time to get instructions.

4. Post the matter after two weeks for getting instructions. There shall be an order of interim stay of further proceedings till then. Personal appearance of the petitioner is dispensed with till then." <https://www.mhc.tn.gov.in/judis>

3. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent.

4. The case of the respondent is that the Rice Mill belonging to the petitioner was inspected by the designated Officer on 29.03.2023. The premises was kept in lock and key. Thereafter, an FIR came to be registered and the premises was opened. It was found that the petitioner was in possession of adulterated food product. A sample was taken and it was forwarded to the Food Analysis Laboratory at Coimbatore. The report of the Food Analysis Laboratory was thereafter forwarded to the designated Officer on 10.04.2013 and he opined that the sample was found to be adulterated. Thereafter, the complaint came to be filed on 24.11.2017.

5. The main ground that was urged by the learned counsel for the petitioner is that the complaint itself is barred since it has been filed beyond the period of one year limitation provided under the Food Safety and Standards Act, 2006. The delay seems to have occasioned due to delay in getting the Sanction Order from the competent authority. <https://www.mhc.tn.gov.in/judis>

6. When similar proceedings were initiated against the very same petitioner, it was interfered on the ground that it is barred by limitation in Crl.O.P.NO.18798 of 2017 by order dated 01.12.2021.

7. Section 77 of the Act provides for time limit for prosecution. This provision makes it clear that a Court cannot take cognizance of the offence under the Act, if the period of one year from the date of commission of the offence expires, 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.

8. In the instant case, admittedly, the sample was drawn on 29.03.2013. However, the complaint was filed only on 24.11.2017 which is nearly after 4 ½ years. This is clearly barred under Section 77 of the Act. Hence continuation of the proceedings will result in abuse of process of Court, which requires the interference of this Court. <https://www.mhc.tn.gov.in/judis>

9. In the result, the proceedings in C.C.No.28/2019 on the file of the District Munsif cum Judicial Magistrate, Perungudi, is hereby quashed and this Criminal Original Petition is allowed, accordingly. Consequently connected miscellaneous petitions are closed.

29.01.2024 Index : Yes/No Internet : Yes/No sk To

1.The District Munsif cum Judicial Magistrate, Kodumudi.

2.The Food Safety Officer, Code No.061, Kodumudi Block, Tamil Nadu Food Safety and Drug Administration Department, Government Hospital Complex, Erode 638 102.

3.The Public Prosecutor, High Court, Madras.

<https://www.mhc.tn.gov.in/judis> N.ANAND VENKATESH, J.

sk 24.01.2024 <https://www.mhc.tn.gov.in/judis>