

P.Dheivam vs The State Rep. By on 20 April, 2023

Crl.O.P.No.13107

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.13107 of 2021
and
Crl.M.P.Nos.7212 & 7213 of 2021

P.Dheivam

...Petitioner/

-Vs-

1.The State rep. by:
Food Safety Officer,
Code No.554,
Coimbatore Corporation Zone,
Tamil Nadu Food Safety and
Drug Administration Department,
Race Course,
Coimbatore – 641 018.

Respondent / Complai

Prayer: Criminal Original petition filed under Section 482 of Code
Criminal Procedure, to call for the records relating to the proceed
S.T.C.No.6617 of 2020 pending on the file of the Judicial Magistrat
No.I, Coimbatore and to quash the same.

<https://www.mhc.tn.gov.in/judis>
1/6

Crl.O.P.N

For Petitioner : Mr.N.Ponraj

For Respondent : Mr.A.Damodaran,

Additional Public Pros

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in S.T.C.No.6617 of 2020 on the file of the Judicial Magistrate No.I, Coimbatore, filed for the offences under Sections 52(1), 59(i) and 61 of the Food Safety and Standards Act, 2006.

2.The allegation in impugned complaint is that the sample of 'Mysore Paruppu' was drawn from the petitioner's premises on 19.08.2019. It was sent for analysis on 20.08.2019 and the Food Analyst had reported that the product is 'unsafe' by the report dated 20.07.2020.

3.The learned counsel for the petitioner submitted that the complaint is liable to be quashed as the respondent has violated the mandatory provisions under the Food Safety and Standards Act, 2006. As per the Act, the Food Analyst has to send his report within a period of <https://www.mhc.tn.gov.in/judis> 14 days from the date on which he had received the sample for analysis. If the Food Analyst is unable to give his report within a period of 14 days, he shall inform the Designated Officer giving reasons for the delay and the approximate time taken for giving the report as per Section 46(3) of the Act. However, in the instant case, the analyst report was sent only on 20.07.2022 nearly 11 months later.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that there are allegations in the complaint and the points raised by the petitioner has to be adjudicated only before the Trial Court.

5.This Court on a perusal of the impugned final report finds that admittedly the sample of the food item was drawn from the petitioner's premises on 19.08.2019 and it was sent to the Food Analyst on 20.08.2019. However, the report of the Food Analyst was sent only on 20.07.2020 stating that the sample was 'unsafe' for consumption. This Court finds that the report has been sent nearly one year later. This Court finds that the shelf-life of the products expired in December 2019. The <https://www.mhc.tn.gov.in/judis> samples have been analyzed only after the shelf-life of the food item. It is also seen that the petitioner had asked for referring the food item to Central Laboratory. However, the same was rejected, since the authorities found that the shelf-life of the product has expired. This confirms the fact that the expiry date of the product was on 01.12.2019.

6.The judgment relied upon by the learned counsel for the petitioner in CrI.O.P.No.3011 of 2011 dated 24.01.2019 of this Court is squarely applicable to the facts of this case. The relevant portion is extracted hereunder for better understanding, “The samples have been analyzed after the shelf- life in flagrant violation of regulation. In view of the above, the complaint against the petitioner is liable to be quashed.”

7.For the above said reasons, the impugned complaint is liable to be quashed and hence the impugned complaint in C.C.No.6617 of 2020 on the file of the Judicial Magistrate – I, Coimbatore, is quashed. <https://www.mhc.tn.gov.in/judis> Accordingly, this Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petitions are closed.

20.04.2023 smv Index : Yes/No Speaking/Non Speaking order Neutral Citation : Yes / No To,

1.Food Safety Officer, Code No.554, Coimbatore Corporation Zone, Tamil Nadu Food Safety and Drug Administration Department, Race Course, Coimbatore – 641 018.

2.The Public Prosecutor, High Court of Madras.

<https://www.mhc.tn.gov.in/judis> SUNDER MOHAN,J.

smv and CrI.M.P.Nos.7212 & 7213 of 2021 20.04.2023 <https://www.mhc.tn.gov.in/judis>