

# Satyam Kumar vs State Of U.P. And Another on 26 February, 2024

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2024:AHC:32879

Court No. - 92

Case :- APPLICATION U/S 482 No. - 42282 of 2023

Applicant :- Satyam Kumar

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Mohd. Naushad Siddiqui, Sanjay Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Prashant Kumar, J.

1. Heard Sri M.N. Siddiqui, learned counsel for the applicant, Sri S.K. Chandraul, learned A.G.A. for the State-O.P. no.1 and perused the record.
2. The present application under Section 482 Cr.P.C. has been filed by the applicant praying for quashing order dated 26.10.2023, cognizance order dated 25.09.2020 passed by Additional Sessions Judge, Court No.16, Kanpur Nagar as well as the entire proceedings of Complaint Case/Sessions Case no.773 of 2020 (State vs. Satyam Kumar) under Sections 58 and 59(iii) read with Section 3(1)(zz)(v) Act and Section 26(2)(i & v) and Section 31(2) of the Food Safety and Standards Act, 2006, Police Station-Auraiya, District-Auraiya pending in the Court of Additional Sessions Judge, Court No.16, Kanpur Nagar.
3. Learned counsel for the applicant submits that on 06.08.2018, the Food Safety Officer inspected the shop of the applicant and took sample of Mainpur brand (Gutkha), which was sent for chemical

analysis and on 21.08.2018, the report came. Thereafter, on 04.09.2020 a complaint was lodged against the applicant and thereafter, cognizance has been taken on 25.09.2020, which is under challenge in this application. He further submits that the prosecution is barred by the provisions of Section 77 of the the Food Safety and Standards Act, 2006 because there is special act being the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003. He further submits that the applicant is a petty shopkeeper and not the person who is manufacturing and selling it as a food product.

4. Per contra, learned A.G.A. submits that the analysis report dated 21.08.2018 shows that the sample was Proprietary food Mainpur (supari + laung + chuna + elaichi + tobacco) falling under regulation no.2.12.1 of food safety and standards (Food products and food additives) Regulation 2011. He submits that since the product was registered under the Food Safety and Standards Act, 2006, hence the provisions of the aforesaid Act has rightly been held applicable. It is further submitted that the Court below has rightly summoned the applicant and no interference is required by this Court in the impugned order as well as the on going proceedings.

5. I find no merit in the matter for interference under Section 482 Cr.P.C. However, the concerned trial court should have seen and appreciated the fact that the applicant is just a petty shopkeeper and if the product does not qualify under the provisions of the Food Safety and Standards Act, 2006, proceedings should also be initiated against its manufacturer. The praying for quashing order dated 26.10.2023, cognizance order dated 25.09.2020 as well as the entire proceedings of the aforesaid case is hereby refused.

6. The instant application filed under Section 482 Cr.P.C. is disposed of with the aforesaid observation.

Order Date :- 26.2.2024 Manish Himwan