

Vinay vs The State Of Madhya Pradesh on 12 January, 2023

Author: Subodh Abhyankar

Bench: Subodh Abhyankar

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IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR
ON THE 12 th OF JANUARY, 2023
MISC. CRIMINAL CASE No. 40446 of 2021

BETWEEN: -
VINAY S/O ASHOK GOYAL, AGED ABOUT 31 YEARS,
OCCUPATION: BUSINESS NIWALI ROAD, SENDHWA,
DISTT.-BARWANI (MADHYA PRADESH)

(BY SHRI HARSHVARDHAN PATHAK, LEARNED COUNSEL)

AND
THE STATE OF MADHYA PRADESH STATION HOUSE
OFFICER THROUGH P.S. SENDHWA GRAMIN (MADHYA
PRADESH)

(BY SHRI NITIN SINGH BHATI, LEARNED GOVERNMENT ADVOCATE
APPEARING ON BEHALF OF THE ADVOCATE GENERAL)

This application coming on for orders this day, the court
following:

ORDER

This petition under Section 482 of Criminal Procedure Code, 1973 (herein after referred to as "the Code") has been filed by the petitioner seeking quashment of the First Information Report (FIR) registered vide Crime No.73/2021 dated 30.01.2021 (Annexure P/1) at Police Station Sendhwa Rural, District Barwani (MP) for offences punishable under Section 420 of Indian Penal Code, 1860 (IPC).

In brief, the facts of the case are that the Food Safety Officer, Food & Drugs Administration Department, Barwani, District Barwani (MP) who is the complainant in the present case lodged a written complaint at Police Station Sendhwa Gramin, District Barwani (MP) to the effect that on 23.10.2020, during inspection of the firm Balaji Namkeen at 03.00 PM, the applicant introduced himself as the Proprietor of the said Firm, samples of good product, 120 Kilograms of Mahi Namkeen amounting to Rs.12,000/- (rupees twelve thousand) from the shop were seized and a panchnama was prepared. The samples of food products were sent to Food Laboratory and after

analysis, the report was obtained on 20.01.2021 which said the sample of food was found to be mis-branded under regulations of Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011. That, on such basis, Police Station Sendhwa registered offence under Section 420 of the IPC against the applicant on 30.01.2021 in Crime No.73/2021. It was alleged in the FIR that the petitioner illegally manufactured, stored and sold Mahi Namkeen which was injurious to health.

Learned counsel for the petitioner has submitted that admittedly subsequent to filing of the FIR, the samples were sent for their analysis and as per the report of the Food Analyst, State Food Testing Laboratory, Bhopal, the samples have been found to be within the standard prescribed under the Food Safety and Standards Act, 2006 (herein after referred to as the Act of 2006).

Counsel has also submitted that although the petitioner has already been punished for an offence under Section 52 of the Act of 2006 and has been penalized with an amount of Rs.25,000/-(rupees twenty five thousand only). However, no case under Section 420 of IPC is made out, as alleged in the FIR, as it is nobody's case that the petitioner was found to be selling any items what is found is that in his factory, certain food item " Namkeen was being manufactured, which according to the FIR was not having the name of edible oil and it has also been mentioned in the FIR, that there is suspicion that the petitioner is also involved in mixing the loose oil with sub standard oil. However, the aforesaid fact already stands rebutted by the Food Analyst Report dated 18.01.2021, which is placed on record. Thus, it is submitted that the impugned FIR be quashed.

Learned counsel for the respondent / State, on the other hand, has opposed the prayer.

Heard counsel for the parties and perused the record. On due consideration of the submissions and on perusal of the documents filed on record, this Court finds force with the contentions raised by the learned counsel for the petitioner, that no case for offence punishable under Section 420 of IPC is made out, as admittedly, Food Analyst Report has clearly given a clean chit to the petitioner that the food item prepared by him is within the prescribed norms of the Act of 2006; and so far as mis-branding is concerned, he has already been penalized with an amount of Rs.25,000/- (rupees twenty five thousand only) under the Act of 2006; and there is no allegation of cheating any person in any manner.

In such circumstances, the impugned FIR cannot be sustained in the eyes of law; and the FIR registered against the petitioner vide Crime No.73/2021 dated 30.01.2021 (Annexure P/1) at Police Station Sendhwa Rural, District Barwani (MP) for offence punishable under Section 420 of IPC is hereby quashed.

Accordingly, Miscellaneous Criminal Case No.40446/2021 stands allowed.

All the other pending interlocutory applications, if any, shall stand disposed of.

(SUBODH ABHYANKAR) JUDGE rcj