

Narasus Coffee Company vs The Food Inspector on 4 January, 2022

Author: N. Sathish Kumar

Bench: N. Sathish Kumar

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 4/1/2022

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No.23190 of 2017
and
Crl.M.P.Nos.13500 and 13501 of 2017

Narasus Coffee Company
rep. By Mr.S.Hariharan
16 Court Road
Johnsonpet
Salem 636 007.

... Petitioner

Vs

The Food Inspector
Tiruppur City Municipal Corporation
Tiruppur 638 604.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C.
for the records in C.C.No.77 of 2010 pending on the file of the learned
Magistrate – II, Tiruppur and quash the same.

For Petitioner ... Mr.C.Emalias
for Mr.K.Prabakar

For Respondent ...
Mr.S.Vinoth Kumar
Government Advocate
(Criminal Side)

ORDER

Page No:1/5 <https://www.mhc.tn.gov.in/judis> This Criminal Original Petition has been filed to quash C.C.No.77 of 2010 pending on the file of the learned Judicial Magistrate – II, Tiruppur.

2. Brief facts which are necessary for the disposal of this Criminal Original Petition is as follows:-

On 24/9/2008, the respondent entered Sri Selvakumar Departmental Stores and purchased six pockets of 100 gms of Coffee powder and sent to Public Analyst, Salem. The respondent informed the petitioner, by his letter, dated 27/9/2008. After analysis, the Public Analyst sent the report, dated 22/10/2008, wherein the analyst has termed the product of the petitioner as 'Misbranded', since it is not labeled in accordance with the requirement of Rule 37 of the PFA Rules, 1955, and the same was received by the respondent on 23/10/2008.

3. The learned counsel appearing for the petitioner submitted that as per Section 13 (2) of PFA Act, 1954, the petitioner should be afforded an opportunity to get the sample of an article of food kept by the local health authority analysed by the Central Food Laboratory. The valuable right of the Page No:2/5 <https://www.mhc.tn.gov.in/judis> petitioner was not given and hence, on this grounds, prays for quashment.

4. Heard Mr.C.Emalias, learned counsel for the petitioner and Mr.S.Vinoth Kumar, learned Government Advocate (Criminal Side) for the respondent.

5. The learned counsel for the petitioner submitted that as per Rule 11 (4) of the Prevention of Food Adulteration Act, 1954, the prosecution is required to send sample within a period of seven days. The subsequent Act, namely, the Food Safety and Standard Act also prescribes a period of one year, as a time limit for prosecution from the date of initiation of offence. In the case on hand, the prosecution has been launched after 1 ½ years which is violative of both the Acts.

6. It is relevant to note that on an earlier occasion, the petitioner and another had filed Crl.O.P.No.9007 of 2011, to quash C.C.No.77 of 2010, pending on the file of the learned Judicial Magistrate No.II, Tiruppur. On 26/4/2017, when the matter came up for hearing, the learned counsel for the petitioner sought permission of this Court to withdraw Crl.O.P.No.9007 of Page No:3/5 <https://www.mhc.tn.gov.in/judis> 2011 and the same was dismissed as withdrawn.

7. Once the above Crl.O.P.No.9007 of 2011 was dismissed as withdrawn, again the petitioner cannot come before this Court with the same prayer. Accordingly, this Criminal Original Petition is dismissed. The learned Judicial Magistrate No.II, Tiruppur, shall dispose of the case, pending in C.C.No.77 of 2010, within a period of six months, from the date of receipt of a copy of this order. Consequently, the connected Criminal Miscellaneous Petitions are closed.

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To

1. The Judicial Magistrate – II, Tiruppur
2. The Food Inspector Tiruppur City Municipal Corporation Tiruppur 638 604.
3. The Public Prosecutor, High Court, Madras.

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