

Tej Ram Dharampal Private Limited vs The State Of Tamil Nadu on 15 September, 2022

Author: G.Jayachandran

Bench: G.Jayachandran

Crl.O.P.No

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2022

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THE HON'BLE Dr.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.11829 of 2019

and

Crl.M.P.No.6111 of 2019

Tej Ram Dharampal Private Limited,
Rep by its Director,
Mr.Manmohan Kuman Punia,
No.J.P.04, Pidambara,
New Delhi 110 034.

-Vs.-

The State of Tamil Nadu,
rep by the Food Safety Officer,
Mr.Jebara Shobanamumar,
Choolai medu and Nungambakkam Area,
Code No.538, O/o. The Designated officer,
Tamil Nadu Food Safety and Drug Admit Dept,
No.33, West Jones Road,
Saidapet, Chennai 600 015.

Criminal Original Petition filed under Section 482 of
Criminal Procedure to call for the records pertinent to the C.C.No.
of 2018 pending on the file of the learned XIV Metropolitan Magistr

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

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Egmore (Allikulam) Chennai for the offences under Section 58, 59(1) and 63 of the Food Safety and Standards Act, 2006 and to quash the as against the petitioner/accused (A3).

For Petitioner : Mr.M.Prabakar

For Respondent : Mr.N.S.Suganthan,

Government Advocate (Criminal s

ORDER

This Criminal Original Petition has been filed to quash the criminal case in C.C.No.3647 of 2018, on the file of the learned XIV Metropolitan Magistrate, Egmore (Allikulam).

2. The case of the petitioner is that the petitioner is arrayed as third accused, being the manufacturer of the prohibited and mis-branded tobacco product. The other two accused are the seller and shop owner, from where the contrabands were seized by the Food Safety Inspector and sent for analysis report. Pursuant to the lab report, the prosecution has been launched in C.C.No.1583 of 2018 on the file of the learned XIV Metropolitan Magistrate, Allikulam.

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3. The petitioner herein seeks quash of the complaint on the ground that there is no material evidence to show that the petitioner is the manufacturer of the contrabands labeled as "Cool Lip Filter Tobacco", which was seized by the complainant in the course of the inspection held on 10.07.2017. The prima facie conclusion of the complainant that the product contains nicotine and the ingredients, which is harmful and not permitted with respect to 2.3.4 of FSSR (Prohibited and Restriction on Sales), 2011 and also under 2.11.5 FSSR (FTS & FA), 2011. However, there is no material to show that the second sample was submitted to lab test to confirm the report of the first lab test and therefore, the prosecution against this petitioner is a malicious prosecution.

4. The learned Government Advocate appearing for the respondent/complainant submitted that the material seized from the accused 1 and 2 indicates the petitioner as the manufacturer of the product. The samples drawn from the seized material found to contain nicotine or prohibited substances and therefore, the prosecution was launched after obtaining sanction. The other 2 accused have pleaded <https://www.mhc.tn.gov.in/judis> guilty and convicted for the offences under Sections 58, 59(1) of the Food Safety and Standards Act, 2006 vide order dated 16.05.2018. Against this petitioner, the case was split up and pending trial in C.C.No.3647 of 2018. The petitioner-company name is found in the packing and he cannot claim that he has nothing to do with the contrabands seized. So that the plea of the petitioner that the second sample should be send for re-analysis is incorrect and

unless and until it is proceeded by the accused person within a period of 30 days from the date of receipt of lab report, there is no necessity to send the second sample for re-analysis.

5. This Court on considering the submissions, finds that there is enough material to prosecute the petitioner and the grounds raised in the quash petition is not sustainable. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is also closed.

15.09.2022 Speaking/Non-speaking order Index: Yes/No Internet : Yes/No
<https://www.mhc.tn.gov.in/judis> nsa To The XIV Metropolitan Magistrate, Egmore (Allikulam),
Chennai <https://www.mhc.tn.gov.in/judis> Dr.G.JAYACHANDRAN.J., nsa 15.09.2022
<https://www.mhc.tn.gov.in/judis>