

P.Vivekanandan vs The Food Safety Officer on 18 March, 2024

Author: M.Dhandapani

Bench: M.Dhandapani

CrI.O.P. (MD) No. 14628

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.(MD) No.14628 of 2022
and
CrI.M.P.(MD).Nos.9489 and 9492 of 2022

P.Vivekanandan

... Petitioner

Vs.

The Food Safety Officer,
Code No.109 and 120,
Chellampatti & Vadipatti Taluk,
Designated Officers Office,
Multipurpose Health Supervisors (F) Training School,
Viswanathapuram,
Madurai-625 014.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and quash the proceedings in S.T.C. of 2022 on the file of the Judicial Magistrate, Vadipatti in so far as it affects the petitioner.

For petitioner
For Respondent

: Mr.M.Rajaraman
: Mr.P.Kottaichamy
Government Advocate (CrI.Side)

<https://www.mhc.tn.gov.in/judis>
1/7

CrI.O.P. (MD) No.

ORDER

This petition has been filed to quash the proceedings in S.T.C.No.10 of 2022 on the file of the Judicial Magistrate, Vadipatti.

2. The petitioner is the first accused. This petition has been filed mainly on the ground that the charge sheet filed against the manufatureres/Accused Nos. 2 and 3 was quashed by this Court in Crl.O.P(MD).No.12283 of 2022 dated 29.08.2022.

3. The learned conunsel for the petitioner submitted that the petitioner is the retailer and he was arrayed as A1 in the compliant. A2 and A3 are doing the business of groundnut oil and A3 is the owner of the A2's company. After manufacuturing the groundnut oil, they sent the same for sale through the petitioner. While so, on 25.08.2020, the respondent/food safety officer visited the petitioner's factory and taken the sample and sent the same for analysis and the report was received on 19.10.2020. Thereafter, the present complaint was registered on the ground that the edigible oil, which was taken by the food safety officer is unsafe. However, the edigible oil was packed by the manufacuter on 06.03.2020 and it is usable on or before six months (i.e) on 05.09.2020. In such circumstances, the food analyst analyzed the groundnut oil from <https://www.mhc.tn.gov.in/judis> Crl.O.P.(MD)No.14628 of 2022 02.09.2020 to 29.09.2020, which is beyond the period of usable date (i.e) on 05.09.2020. The analysis was done after the expiry period date, on that sole ground, the prosecution initiated against the co-accused namely A2 and A3 was quashed by this Court.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the food sample was anaylized after the expiry period, on that sole ground, this Court quashed the complaint in respect of the A2 and A3.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent police.

6. The facts in the present case is not in dispute. Addmittedly, in respect of the accused A2 and A3 the prosecution was quashed by this Court and the relevant paragraph is extracted hereunder :-

" 5.On a perusal of records, it is seen that the petitioner is the accused person in S.T.C.No.10/2022, on the file of the learned Judicial Magistrate, Vadipatti. The petitioner is prosecuted by the respondent/Food Safety Officer for committing the offence punishable under <https://www.mhc.tn.gov.in/judis> Crl.O.P.(MD)No.14628 of 2022 Sections 51, 59(1) and 58 of Food Safety and Standard Act, 2006. According to the petitioner, the seized ground nut oil was manufactured on 06.03.2020 and it is usable before 05.09.2020. To that effect, label is suffixed. This fact is not disputed. Further, the sample, which had been taken by the Food Safety Officer on 25.08.2020, was sent to the lab for analysis, on 26.08.2020, which was received by the food analyst on 01.09.2020 and analysis was done from 02.09.2020 to 20.09.2020. After analysis, they sent the report dated 19.10.2020, which was received by the officer on 27.10.2020. In the said report, it is stated that the sample ground nut oil contains

peroxide value at 46.3 meq/kg. It should be not more than 10 meq/kg. Hence the petitioner is prosecuted. According to the petitioner, this was manufactured and packed on 06.03.2020 and it is best usable before 05.09.2020. The label is suffixed in the oil. Under these circumstances, after the best usable period, the sample was subjected for analysis. Further, the report was received only on 27.10.2020. The referral lab opportunity notice was sent to the petitioner on 29.10.2020.

6.The learned Counsel appearing for the petitioner during the course of the argument submitted that the period mentioned in the label 'best before' is a mandatory one and he was prevented from selling the <https://www.mhc.tn.gov.in/judis> Crl.O.P.(MD)No.14628 of 2022 food. Under these circumstances, the referral notice was received from the officer only on 29.10.2020. Further, the petitioner was prevented from availing the legal right given to the petitioner.

7.Therefore, the proceedings is vitiated and liable to be quashed. Accordingly, the proceedings in S.T.C.No. 10/2022, on the file of the learned Judicial Magistrate, Vadipatti is hereby quashed and this criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed."

7. In view of the above order passed in Crl.O.P(MD).No.12283 of 2022 dated 29.08.2022, the proceedings in S.T.C.No.10 of 2022 on the file of the Judicial Magistrate, Vadipatti is quashed against the petitioner. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

18.03.2024 Index : Yes/No Internet : Yes/No TTA <https://www.mhc.tn.gov.in/judis> Crl.O.P.(MD)No.14628 of 2022 To

1.The Food Safety Officer, Code No.109 and 120, Chellampatti & Vadipatti Taluk, Designated Officers Office, Multipurpose Health Supervisors (F) Training School, Viswanathapuram, Madurai-625 014.

2.The Judicial Magistrate Court, Vadipatti.

3.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai. <https://www.mhc.tn.gov.in/judis> Crl.O.P.(MD)No.14628 of 2022 M.DHANDAPANI. J.

TTA Crl.O.P.(MD)No.14628 of 2022 18.03.2024 <https://www.mhc.tn.gov.in/judis>