

Rajkumar vs The Food Safety Officer on 7 March, 2024

Author: M.Dhandapani

Bench: M.Dhandapani

Crl.O.P. (MD)

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2024

CORAM: THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.O.P.(MD) No.14632 of 2022 and

Crl.M.P.(MD).Nos.9494 and 9495 of 2022

Rajkumar

... Petitioner

Vs.

The Food Safety Officer

Code No.571

Office of the Designated Officer,

Tamil Nadu Food Safety and Administration Wing

1st Floor, Office of the Deputy Director of Health Services

Multipurpose Health Supervisors

Training School

Viswanathapuram

Madurai 14

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and quash the proceedings in STC.No. of 2021 , on the file of the Judicial Magistrate, No.VI, Madurai in the petitioner.

For petitioner

: Mr.M.Rajaraman

For Respondent

: Mr.P.Kottaichamy
Government Advocate (Criminal)

ORDER

This petition has been filed seeking to quash the proceedings in STC.No.7627 of 2021 initiated under Sections 57(1)(ii), 59(i) & 63 of <https://www.mhc.tn.gov.in/judis> Crl.O.P.(MD)No.14632 of 2022 Food Safety and Standards Act, on the file of the learned Judicial Magistrate, No.VI, Madurai.

2. The case of the prosecution is that the complainant while inspection found that the petitioner was selling substandard unsafe, misbranded and misleading oil and hence, on seizing the same, the

samples were sent and since it was found that the samples are substandard and misbranded one, cognizance was taken under sections 57(1)(ii), 59(i) & 63 of Food Safety and Standards Act (in short, 'the Act'), for quashing which, the petitioner is before this court.

3. The learned counsel for the petitioner would submit that the petitioner has nothing to do with the alleged and he has been falsely implicated. He would further submit that after taking the samples, the food analyst ought to have analysed the sample and send a report within 14 days to the officer designated, however, the samples were taken on 07.07.2020 and a report was sent nearly after 40 days, ie., on 31.08.2020, which is contrary to Section 42 of the Act and the learned Magistrate has also failed to consider the provisions under Section 42 of the Act and taken cognizance. Hence, the proceedings have to be quashed and prays for interference.

<https://www.mhc.tn.gov.in/judis> CrI.O.P.(MD)No.14632 of 2022

4. The learned counsel for the respondent would submit that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the proceedings cannot be quashed and the charges against the petitioner has to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5. It is seen that the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioner, if he is subjected to due trial as sufficient opportunity would be given to her to put forth his defence. The petitioner cannot be let by quashing the charges framed against him as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against him. Further, the disputed questions of facts could not be gone into under Section 482 Cr.P.C. and it has to be agitated only before the trial court. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in State of Haryana – Vs - Bhajan Lal (1992 SCC (CrI.) 426).

6. For the reasons aforesaid, this Court finds no ground or scope to quash STC.No.7627 of 2021, pending on the file of the learned Judicial Magistrate, No.VI, Madurai. Accordingly, this petition, being devoid of <https://www.mhc.tn.gov.in/judis> CrI.O.P.(MD)No.14632 of 2022 merits, is dismissed. Consequently, connected miscellaneous petition is dismissed.

7. The learned counsel appearing for the petitioner submitted that this Court may consider dispensing with the personal appearance of the petitioner before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

NCC : Yes/No
Index : Yes/No

RR

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

CrI.O.P. (MD)No.14632

To

1. The Judicial Magistrate, No.VI,Madurai

2.The Food Safety Officer Code No.571 Office of the Designated Officer, Tamil Nadu Food Safety and Administration Wing 1st Floor, Office of the Deputy Director of Health Services Multipurpose Health Supervisors Training School Viswanathapuram Madurai 14

3.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.
<https://www.mhc.tn.gov.in/judis> CrI.O.P.(MD)No.14632 of 2022 M.DHANDAPANI. J.

RR CrI.O.P.(MD)No.14632 of 2022 07.03.2024 <https://www.mhc.tn.gov.in/judis>