

# Petitioner vs The Food Safety Officer on 29 August, 2022

**Author: V.Sivagnanam**

**Bench: V.Sivagnanam**

Crl.O.P.(MD)

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2022

CORAM:

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.(MD) No.14629 of 2022  
and  
Crl.M.P(MD) Nos.9490 and 9491 of 2022

Rajkumar,

Vs

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

: Re

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying  
this Court to call for the records and quash the proceeding in S.T.C. No.  
of 2021 on the file of the learned Judicial Magistrate No.VI, Madurai in  
as the petitioner is concerned.

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For Petitioner : Mr.Rajaraman M,  
For Respondent : Mr.E.Antony Sahaya Prabahar,  
Additional Public Prosecutor

ORDER

This petition is filed to quash the proceedings in S.T.C. No. 7624 of 2021, on the file of the learned Judicial Magistrate No.VI, Madurai.

2.The learned counsel appearing for the petitioner submitted that on 07.07.2022, the complainant seized the Amudham Brand Lighting Oil weighing 370 Kilo Litre and Amudham Oil weighing 110Kilo Litre from the petitioner's shop and sent the same to the Food Analyst on 08.07.2020. The Food Analyst sent a report on 10.09.2020 stating that the sample is misleading, misbranded, sub standard, unsafe, prohibited and restricted on sales. Then, the Designated Officer sent the said report along with his letter dated 18.09.2020, i.e., after the expiry of the said product, to the Commissioner of Food Safety. Therefore, the petitioner's right to appeal is barred. After getting sanction from the Commissioner of Food Safety, the complainant filed a complaint against the petitioner for the offences under Sections 51, 52(1), 53(1)(a), 59(i) and 63 of Food Safety and Standards Act, 2006.

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3.The learned Additional Public Prosecutor appearing for the respondent police submitted that in this case, the sample has been taken from the petitioner' premises on 07.07.2020. The respondent has seized Amudham Brand Lighting Oil weighing 370 Kilo Litre and Amudham Oil weighing 110 Kilo Litre. After analysing, they found that the sample oil do not confirm to standards and it is found to be misleading, misbranded, sub standard, unsafe, prohibited and restricted on sales. Thus, he pleaded to dismiss this petition.

4. I have considered the submission of the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondent police.

5.A perusal of records shows that the petitioner were prosecuted by the respondent for the offences under Sections 51, 52(1), 53(1)(a), 59(i) and 63 of Food Safety and Standards Act, 2006. The case was taken on file in S.T.C.No.7624 of 2021 by the learned Judicial Magistrate No.VI, Madurai and the same was posted for trial. The learned counsel for the petitioner further submitted that the petitioner is doing a business only for selling lighting oil and not any Gingelly Oil.

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6.According to the prosecution, the respondent inspected the Amudham Brand Lighting Oil weighing 370Kilo Litre and Amudham Oil weighing 110Kilo Litre each and the same was sent to the Food Analyst. The Food Analyst by its report, dated 10.09.2020, found that the samples were

misleading, misbranded, sub standard, unsafe, prohibited and restricted for sales. Hence, after getting sanction order from the Commissioner of Food Safety and Drug Administration Department, the respondent prosecuted the petitioner. Now the petitioner's counsel disputed that the seized oil is not a Gingelly oil and it is only a lighting oil. Therefore, the question is whether the seized oil is a lighting oil or Gingelly oil as contended by the respondent. This disputed fact has to be adjudicated before the trial Court after let in evidence on both the sides. This factual dispute has to be adjudicated by examining the prosecution witnesses. Therefore, before commencement of trial, the factual dispute cannot be adjudicated while considering the proceedings for quashing in exercise of power under Section 482 of Cr.P.C. The trial Court has to record the evidence for proper adjudication. Therefore, it is inappropriate to quash the proceedings before commencement of trial and let in evidence of the parties. Hence, I find no merit in this case. <https://www.mhc.tn.gov.in/judis> Crl.O.P.(MD) No.14629 of 2022

7. Therefore, this Criminal Original Petition stands dismissed. Consequently connected miscellaneous petition are closed.

29.08.2022 Internet:Yes Index:Yes/No Speaking/Non speaking order lr To

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

2. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

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