

M/S K.M Enterprises Through Its ... vs State Of N.C.T Of Delhi & Anr on 27 October, 2021

Author: Yogesh Khanna

Bench: Yogesh Khanna

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.M.C. 2646/2021

M/S K.M ENTERPRISES THROUGH
ITS PROPRIETOR & ANR.

Through : Mr.Himanshu

Mr.Karan Jain, Advocate

versus

STATE OF N.C.T OF DELHI & ANR.

Through : Mr.M.S.Oberoi, APP the S

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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27.10.2021

Crl.M.A.No.17045-46/2021

1. Exemption allowed, subject to all just exceptions.

2. The applications stand disposed of.

CRL.M.C. 2646/2021 & Crl.M.A.No.17044/2021

3. This petition is filed against the summoning order dated 15.01.2021 passed by the learned Trial Court in CC No.2801/2020 titled SFO vs Lakhn Basista & Ors and the proceedings arising therefrom under the Food Safety and Standard Act, 2006 (hereinafter referred as the Act).

4. The learned counsel for the petitioner submits on 27.05.2019, the respondent No.2/Food Safety Officer visited the premises of the petitioner and purchased a sample of sealed polypackets of Pasteurized Cow Milk for analysis for sampling and prepared the sampled documents. The said food item was manufactured/ packed by M/s.Solitaire Foods Private Limited and marketed by M/s.Patanjali Ayurved Limited, Haridwar.

5. The respondent No.2 sent the sample to Food Analyst, GNCT of Delhi and deposited the remaining packets with Designated Officer. The Food Analyst submitted his report and opined the sample was misbranded.

6. The learned counsel for the petitioner submits the case put up against him is of misbranding and

the offence attracted, per complaint filed by respondent No.2, is under Section 52 of the Act, and per Section 52(2) of the Act, prior to filing the complaint, the Adjudicating Officer ought to have issued a direction to petitioner for taking corrective action to rectify the mistake or asking him to destroy the article of food, which has not been done in the present matter. He also refer to Section 32 of the Act, which speaks of an improvement notice which the Designated Officer has to give to food business operator asking him to take rectification measure in case of any offence is made out under the Act, which has not been done in this case.

7. Issue notice. Learned APP accepts notice and seeks to file status report. As sought, status report be filed before the next date of hearing with an advance copy thereof to the learned counsel for petitioner through email.

8. Notice be issued to respondent No.2 through all modes/email and whatsapp returnable for next date of hearing.

9. List on 07.01.2022.

YOGESH KHANNA, J.

OCTOBER 27, 2021 M