

Monesh Agrawal vs The State Of Madhya Pradesh on 12 January, 2023

Author: Subodh Abhyankar

Bench: Subodh Abhyankar

IN THE HIGH COURT OF MADHYA PRADESH

AT I N D O R E
BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 12th OF JANUARY, 2023

MISC. CRIMINAL CASE No. 11150 of 2021

BETWEEN: -

MONESH AGRAWAL S/O SHRI OMPRAKASH
AGRAWAL, AGED ABOUT 42 YEARS,
OCCUPATION: BUSINESS 54, NAGAR NIGAM
ROAD, INDORE (MADHYA PRADESH)

(BY SHRI A. S. GARG, SENIOR COUNSEL WITH MS. POORVA
MAHAJAN, ADVOCATE)

AND

THE STATE OF MADHYA PRADESH STATION
HOUSE OFFICER THRU. P.S. BANGANGA,
INDORE (MADHYA PRADESH)

(BY SHRI S. S. THAKUR, G.A.)

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This petition coming on for admission this day, the
passed the following:

ORDER

1] Heard finally, with the consent of the parties. 2] This petition has been filed under Section 482 of Cr.P.C. for quashing the First Information Report (FIR) registered at Crime No.67 of 2021, under Sections 420, 272 and 273 of IPC at Police Station Banganga, District Indore on 18.01.2021, as also all other subsequent proceedings arising out of the said crime no. 3] In brief, the facts of the case are that on 18.01.2021 the Food Safety Officer, Indore visited the unit of the petitioner as the petitioner is engaged in the business of manufacturing Namkeen in the name and style of Naman Sev Bhandar and Sweet and it was found that the various food items were being prepared in unhygienic condition and also that the packets of Namkeen did not contain the batch number, net weight and the name of

the manufacturer etc. and thus, the FIR was lodged on the same day and the investigation ensued. During the course of investigation, the material seized from the unit of the petitioner was also sent to the food analyst and it has been found that the material confirmed to the standards as prescribed under the Food Safety and Standards Act, 2006 (in short ' the Act of 2006').

4] Shri Ashok Garg, learned senior counsel appearing for the petitioner has submitted that separate proceedings were initiated against the petitioner under the provisions of Act of 2006 and he has been imposed a penalty of Rs.1 lakh under Section 52 of the Act of 2006, which refers to mis-branding of the product. Senior counsel has also submitted that once the petitioner has already been punished under the Act of 2006, there was no occasion for the respondent to prosecute the petitioner under Sections 420, 272 and 273 of IPC also.

5] So far as the Sections 420, 272 and 273 of IPC are concerned, it is submitted that even otherwise none of the ingredients of the aforesaid offences are made out in the present case as admittedly, the petitioner was not found to be selling the items from his factory in which only the manufacturing was being carried out and so far as Sections 272 and 273 are concerned, it is submitted that it is also not disputed that the material seized from the petitioner's factory was not adulterated in any manner and confirmed to the standards prescribed under the Act of 2006. 6] Senior counsel has drawn the attention of this Court to the wrappers of the Namkeen in which the manufacturing facility and the place from the goods were to be marketed have been specifically mentioned with their addresses and thus, it is submitted that it cannot be said that there was any intention of cheating on the part of the petitioner, whose family is in the business since last many decades.

7] Counsel for the respondent/State, on the other hand, has opposed the prayer and it is submitted that no case for interference is made out as the petitioner was found to be manufacturing the Namkeen under unhygienic condition, which is clearly mentioned in the FIR. Thus, it is submitted that the petition being devoid of merits, is liable to be dismissed.

8] Heard. On due consideration of submissions and on perusal of the documents filed on record, this Court finds that merely on the allegation of manufacturing the Namkeen under the unhygienic conditions and also when he is said to be engaged in mis-branding as provided under the Act of 2006, does not entitle a person to be booked u/s.420 of IPC, unless the ingredients of the same are made out. It is also found that it is not alleged against the petitioner that he was caught while selling his Namkeen, there is no complainant also who could say that he has been sold any such product which amounts to cheating on the part of the petitioner. On the other hand, as per the Food Analyst,s report filed along with the charge-sheet, the goods were also found not to be adulterated in any manner. Thus, the ingredient of Sections 272 and 273 are also not satisfied and in such circumstances, further continuation of the proceedings of the trial Court, in the considered opinion of this Court, would only be a futile exercise and would further waste the valuable time of the Court.

9] In view of the same, the petition stands allowed and the FIR registered at Crime No.67/2021 under Sections 420, 272 and 273 of IPC at Police Station Banganga, District Indore on 18.01.2021 as also the all other subsequent proceedings arising out of the said crime are hereby quashed. The petitioner is discharged from the aforementioned charges. All the subsequent proceedings relating

to aforementioned crime number registered against the petitioner are also quashed.

(Subodh Abhyankar) Judge Pankaj