

Chetan vs The State Of Madhya Pradesh on 13 January, 2023

Author: Subodh Abhyankar

Bench: Subodh Abhyankar

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IN THE HIGH COURT OF MADHYA PRADESH
AT I N D O R E

BEFORE
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 13th OF JANUARY, 2023

MISC. CRIMINAL CASE No. 38204 of 2021

BETWEEN: -

CHETAN S/O MAHENDRA RATHORE, AGED
ABOUT 35 YEARS, OCCUPATION: BUSINESS
5/4, NORTH RAJMOHALLA, INDORE
(MADHYA PRADESH)

(SHRI L. SHUNONDO CHANDIRAMANI, ADVOCATE)

AND

THE STATE OF MADHYA PRADESH
STATION HOUSE OFFICER THROUGH P.S.
MHOW (MADHYA PRADESH)

(SHRI TARUN PAGARE, PANEL LAWYER)

.....RE

This application coming on for orders this day, the court
passed the following:

ORDER

1] This petition has been filed by the petitioner under Section 482 of the Cr.P.C. for quashment of F.I.R. No.30/2021 dated 30.1.2021 for offence under Sections 420, 272, 273, 34 of the IPC and under Section 52 of the Food Safety and Standards Act, 2006 registered at Police Station-Mhow, District-Indore(Madhya Pradesh) whereby it is alleged that the petitioner was involved in misbranding under the provisions of Food Safety and Standards Act, 2006 (herein after referred to as "the Act of 2006") and has committed the offence as mentioned herein above.

2] In brief, brief facts of the case that, the petitioner is the Proprietor of M/s Ajab Gajab Food Products and engaged in manufacturing and selling of Namkeen products. On 19.11.2020 Food Inspector Pushpak Kumar Dwivedi made a written complaint and the officials of the Food Department visited the shop of the petitioner and during inspection they took certain samples of the

food products from the shop and prepared Panchnama. After taking samples of food products, the same were sent to the Food Laboratory for analysis report. In the analysis report, the samples of the food were found to be misbranded and thus, the FIR has been lodged on 30.1.2021 for the aforesaid offence.

3] Learned counsel for the applicant has submitted that subsequently on an appeal preferred by the petitioner the samples were forwarded to Referral Food Laboratory, Pune and the samples are found to be of prescribed standard. A photocopy of the document to this effect is placed on record. Counsel has further submitted that merely because of the product was found to be misbranded cannot being tried to lodging of the FIR for offence under Section 420 of the IPC as there is a specific provision under Section 42 of the Act of 2006 which provides for procedure for launching prosecution; whereas the FIR was lodged without following the aforesaid procedure and it is nobody's case that the petitioner was selling the namkeen on the spot as there is no complainant in the case. Counsel has also drawn attention of this Court to the decisions rendered by this Court in the cases of Ajit Kumar Sanghvi vs. State of Madhya Pradesh (M.Cr.C.No.36796/2021 dated 5.1.2023) and Vinay s/o Ashok Goyal vs. State of Madhya Pradesh (M.Cr.C.No.40446/2021 dated 12.1.2023) in which, in identical circumstances the FIR has been quashed by this Court holding that no case for offence under Section 420 of the IPC is made out.

4] Learned counsel for the respondent/State is opposed the prayer and it is submitted that no case for interference is made out at this stage.

6] Heard learned counsel for the parties and perused the record.

7] On due consideration of the submissions and on perusal of the documents placed on record, this Court finds that in the FIR the allegation against the applicant is that his food products found to be misbranded and admittedly, under the act of 2006; the maximum penalty for misbranding is Rs.3,00,000/-. So far as the invocation of Sections 420 of the IPC in the present case is concerned, it is found that no such ingredients are made out in the fact and circumstances of the case as the only allegation against the petitioner is that misbranding of the food product which does amount to an offence under Section 420 of the IPC. And so far as Sections 272, 273, 34 of the IPC are concerned, the aforesaid offences would also not be made out, in view of the subsequent report of the Food Analyst dated 01.4.2021 by Referral Laboratory, Pune, which has not been disputed by this State.

8] In such facts and circumstances of the case and also taking note of the order passed by this Court in M.Cr.C. No.36796/2021 dated 5.1.2023 and in M.Cr.No.40446/2021 dated 12.1.2023, this Court is of the considered opinion that no purpose would be served to allow the Trial Court to continue to try the petitioner in a case which in itself cannot be sustained on the basis of the documents and continuation of the trial would only be further waste of valuable time of the trial court.

9] In the result, impugned FIR registered against the petitioner at Crime No.30/2021 dated 30.1.2021 at Police Station-Mhow, District- Indore (M.P.) and the subsequent proceedings initiated against him are hereby quashed.

10] With the aforesaid, the M.Cr.C. stands allowed.

(SUBHODH ABHYANKAR) JUDGE moni MONI DN: c=IN, o=HIGH COURT OF MADHYA PRADESH BENCH INDORE, ou=JUDICIAL, postalCode=452001, st=Madhya Pradesh, 2.5.4.20=6fb601f03d4083a3289219d85392bac3bde1be8a5 3bd80aeba7af5a5244844c1, RAJU pseudonym = 8 5 E 2 1 E 2 3 6 4 6 B 4 7 5 2 6 A 4 9 E 9 9 D 9 1 8 2 D o A E 8 A B D 6 2 D 1 , serialNumber = 3 B F D o 7 B E C o C 7 9 o E 4 A E A 8 C B 1 2 2 D 6 2 9 5 4 9 D 1 o67813B2AE8FB016F1BF08EE881126, cn=MONI RAJU Date: 2023.01.16 18:20:27 +05'30'