

S.Laxman S/O Osannegowda vs The State Of Karnataka on 5 April, 2022

Author: Hemant Chandangoudar

Bench: Hemant Chandangoudar

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CRL.P No. 100294 of 2019

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 05TH DAY OF APRIL, 2022

BEFORE

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

CRIMINAL PETITION NO. 100294 OF 2019 (482-)

BETWEEN:

S. LAXMAN S/O SANNEGOWDA
OCC: PROPRIETOR,
RANJTHA ENTERPRISES,
PLOT NO.82,
KADB INDUSTRIAL AREA,
R/O: ANTHARSANA HALLI,
TUMAKURU,
DIST: TUMAKURU.

...PETITIONER

(BY SRI S. S. YADRAMI, ADVOCATE)

AND:

THE STATE OF KARNATAKA
BY ITS FOOD SAFETY OFFICER,
TALUKA HEALTH OFFICERS OFFICE,
HANAGAL,
DIST: HAVERI.

...RESPONDENT

(BY SRI RAMESH CHIGARI, HCGP)

VN

BADIGER

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THIS CRIMINAL PETITION IS FILED U/SEC.482 OF CR.P.C.,

PRAYING TO QUASH THE IMPUGNED COMPLAINT AT ANNEXURE-A

by V N BADIGER

Date: 2022.04.17

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AND THE IMPUGNED ORDER OF TAKING COGNIZANCE DATED 03.02.2016 IN C.C. NO.29/2016 ON THE FILE OF SENIOR CIVIL JUDGE AND JMFC FOR THE OFFENCE UNDER SEC.59 OF FOOD SAFETY AND STANDARDS ACT, 2006 AT ANNEXURE-H.

THIS PETITION COMING ON FOR ADMISSION THIS DAY, THE COURT MADE THE FOLLOWING:

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ORDER

The learned High Court Government Pleader accepts notice for respondent.

2. The respondent filed a private complaint under section 200 of Cr.P.C. alleging that on 17/10/2015 when he visited to the shop of the accused No.1 suspecting that the tomato sauce kept in the shop for sale were of substandard quality seized 4 samples and sent it for analysis. The food analysis report declared that the tomato sauce seized from the shop of the accused No.1 are of substandard quality and contravene the provisions of Food Safety and Standards Act, 2006 and Rules 2011 (for short 'the act'), thus constituting the offence punishable under Section 59 of the act 2006 and Rules 2011.

3. The learned magistrate after perusing the complaint took cognizance for the aforesaid offence and issued summons to the petitioner/ accused No.2. Taking exception to the same this petition is filed.

4. Sri S. S. Yadrami, learned Senior counsel appearing for the petitioner submits that the respondent without furnishing the copy of the food analysis report has deprived the petitioner of sending the sample to the notified laboratory for analysis through the food safety officer in writing. He further submits that the learned Magistrate has exonerated the accused No.1 who is a retailer on the ground that seizer of the sample is not proved by the complaint. Hence he submits that the impugned proceedings pending against the petitioner requires to be quashed.

5. On the other hand, learned High Court Government Pleader appearing for the State submits that the tomato sauce manufactured by the petitioner was of substandard quality and as such petitioner has committed an offence under section 59 of the act.

6. I have considered the submissions made by the learned counsel for the parties.

7. The petitioner/ accused No.2 is the manufacturer of the sample of the tomato sauce alleged to have been seized by the respondent which is found to be of substandard quality. The accused No. is the retailer save tomato sauce cognitions for the accused No.2. The learned Magistrate has exonerated the accused No.1 for the aforesaid offences on the ground that seizure of the tomato sauce by the respondent is not proved. In view of the exoneration for the accused No.1 for the aforesaid offences the impugned proceedings pending against the petitioner/accused No.2 also requires to be quashed since seizure of the tomato sauce alleged to have been seized by the respondent is not proved.

8. The sub Rule 6 of Rule 2.4.2 of Rules 2011 specifies that a designated officer shall keep two copies of analysis report for further action and one copy shall be sent food safety officer for record and one copy to the food business operator from whom the sample was taken. However in the present case the designated officer has not furnished the analysis report to the petitioner/accused No.1 thus depriving the petitioner of sending the said sample for the further analysis to any NABL accredited/FSSAI notified laboratory as specified under sub Rule 1 of Rule 2.4.5 of the Rules 2011. Hence, the complaint filed by the respondent stands vitiated for non compliance of the mandatory provisions of the Rules. Accordingly, I passed the following:

ORDER

i) This criminal pretension is allowed.

ii) The impugned proceedings in C.C.No.16/2021 pending on the file of Additional Civil Judge and J.M.F.C., Angelina is hereby quashed insofar it relates to the petitioner/accused No.2.

iii) In view of disposal of the matter, pending interlocutory applications, if any, do not survive for consideration and are dismissed accordingly.

Sd/-

JUDGE SSP