

# **M/S. Hindustan Cocacola Beverages Pvt. ... vs The State on 17 October, 2024**

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THE HONOURABLE SMT JUSTICE K. SUJANA

CRIMINAL REVISION PETITION No 5157 OF 2024

ORDER:

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') to quash the proceedings against the petitioner/accused No.2 in C.C.No.2268 of 2022 pending on the file of the IV Additional Metropolitan Magistrate, Ranga Reddy District at L.B. Nagar, registered for the offence punishable under Sections 3 (1) (zz) (iii) (ix) (xi) read with Section 21 (1) and 26 (2) (i) and (ii) read with 2.3.14 (17) of Food Safety and Standards (Prohibition and Restriction on Sales) Regulations, 2011 (for short the Rules 2011) punishable under section 59 (i) of Food Safety and Standards Act, 2006 (for short the Act, 2006) against the petitioner/accused No.2 and another and said complaint was taken cognizance by the trial Court directing the petitioner to appear before the Court on 29.8.2022.

2. Briefly stated, the facts relevant for disposal of this case are that the Food Safety Officer, Ranga Reddy District/respondent herein who is complainant, along with his Officials visited the premises of accused No.1 on 20.6.2017 and found 25 X 1 'Kinley Packaged Drinking Water' out of which, he purchased 16 bottles and served notice in Form -VA and informed that the said bottles will be sent to State Food Laboratory for analysis and obtained acknowledgement. Thereupon, by following the procedure laid down, he divided the said bottles in four parts and sent one part to Analyst under acknowledgement and deposited remaining two parts of samples with the Food Safety Designated Officer, Ranga Reddy, vide acknowledgement dated 21.6.2017 and since accused No.1 had not availed the opportunity to send fourth part to the accredited laboratory, the same was also deposited with Food Safety Designated Officer on 21.6.2017 itself.

3. On conducting the analysis, the Analyst delivered his report opining that "the sample does not conform to the standards of Aerobic Microbial Count. Hence, it is unsafe". Thereafter, a notice under Section 46 (4) of the Act, 2006 read with Rule 2.4.2 (6) of the Rules, 2011 dated 14.7.2017 was issued to accused No.1 against which no appeal was received. On obtaining sanction for prosecution against accused Nos.1 and 2 I proceedings dated 25.11.2020, a complaint was filed on 22.4.2022. Hence, the present petition alleging filing of complaint, taking cognizance and continuation of proceedings against petitioner herein who is accused No.1 is clear abuse of process of law, is filed praying to quash the same.

4. Heard Sri Leo Raj, learned counsel for petitioner, and Sri S.Ganesh, learned Assistant Public Prosecutor, appearing for sole respondent - State.

5. Learned counsel for petitioner submitted that mainly on four grounds the proceedings against the petitioner are liable to be quashed. Firstly on the ground of limitation, he contended that the limitation of one year under Section 77 of the Act starts on the date of receipt of report i.e., 16.7.2017 and expires on 15.7.2018; secondly that the prosecution launched against the petitioner is based on label declaration which is impermissible when the vendor/accused No.1 failed to produce purchase bill issues by petitioner herein. In support of the said contention, he placed reliance on the decision of Division Bench in Mathew Xavier Vs State of A.P 1 and Full Bench decision in M.T.R. Foods Ltd [2009 (2) ALD (Crl) 685 (DB)] Bangalore Vs State of Andhra Pradesh<sup>2</sup>. Thirdly, that as per the label of 'Kinley packaged drinking water' which was sent to analysis is 'best before 12 months from the date of manufacture' and the period of 12 months expired on 07.06.2018 and the Director, Institute of Preventive Medicine, Narayanaguda, Hyderabad, without considering the above facts and without applying mind had granted sanction, and fourthly, though the Act 2006 does not prescribe a fixed time limit, the Authority ought to have granted sanction within reasonable time which in terms of the judgment of Supreme Court in Subramanian Swamy Vs Manmohan Singh and others <sup>3</sup> is four months and without considering these facts, mechanically sanction of prosecution was granted after lapse of period of 2 years and four months. Therefore, prayed this Court to allow the criminal petition and quash the proceedings initiated against petitioner.

6. On the other hand, the learned Assistant Public Prosecutor appearing for the respondent while advocating for continuation of the proceedings against the petitioner submitted that the Food Safety Officer, Rangareddy District was even permitted to file the [2014 (1) ALD (Crl) 324 (AP) (FB)] (2012) 3 SCC 64 remaining documentary evidence, as such, prayed the Court that the proceedings initiated against the petitioner may not be quashed and the criminal petition be dismissed.

7. Having regard to the rival submissions made and on going through the material placed on record, it is noted that according to petitioner, the limitation of one year under Section 77 of the Act starts on the date of receipt of report i.e., 16.7.2017 and expires on 15.7.2018. At this stage, it is pertinent to note that learned counsel for petitioner relied on the judgment rendered by this Court in D.Anitha Vs. State of Telangana <sup>4</sup> whereunder, it was observed that Section 77 of the Act 2006 reads as under:

"Time limit for prosecutions : notwithstanding anything contained in this Act, no Court shall take cognizance of an offence under this Act after the expiry of the period of one year from the date of commission of an offence";

"Provided that the Commissioner of Food Safety may, for reasons to be recorded in 2019 (2) FAC 550 writing, approve prosecution within an extended period of up to three years".

8. Reverting to the facts of the case on hand, it is seen that the sample of the water bottles was taken on 20.06.2017 and the report of the same was immediately received on 21.06.2017 whereas, at this

stage, it is eccentric to note that the sanction was granted in the year 2020 i.e., after lapse of three years of receiving the report. Moreover, the complaint against the petitioner is filed after lapse of one and half year i.e., on 20.06.2017 which shows that in total there is delay of four years and the sanctioning authority has not granted sanction within one year of receipt of report. Thus, it can be seen that even after considering the proviso of Section 77 of Act, 2006 the case is hit by limitation.

9. In view thereof, this Court is of the opinion that the proceedings initiated against the petitioner cannot be proceeded with when the case is hit by delay of total four years. Further, accused No.1 failed to submit any invoice which would show that he purchased water bottles from petitioner and on this ground as well the proceedings initiated against the petitioner are liable to be quashed.

10. With the above discussion, this Criminal Petition is allowed, and the proceedings initiated against the petitioner in C.C.No.2268 of 2022 pending on the file of the IV Additional Metropolitan Magistrate, Ranga Reddy District at L.B. Nagar, is hereby quashed.

Miscellaneous applications, if any pending, shall also stand closed.

\_\_\_\_\_ K. SUJANA, J Date:17.10.2024 PT