

Mrs.Arul Jothi vs Government Of Tamil Nadu on 11 October, 2023

Author: G.K.Ilanthiraiyan

Bench: G.K.Ilanthiraiyan

Crl.O.P.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2023

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.17423 of 2017

and

Crl.M.P.Nos.10659 and 10660 of 2017

Mrs.Arul Jothi

Vs.

Government of Tamil Nadu,
Rep. by Food Safety Officer,
Mr.P.Nagarajan,
Code No:034,
Food Safety and Drug Administration Department,
Kariamangalam Block,
Dharmapuri District.

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Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, calling for the records in S.T.C.No.501 of 2017 on file at the office of the Judicial Magistrate Palacode, Dharmapuri District and quash the proceedings insofar as it relates to the petitioner.

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<https://www.mhc.tn.gov.in/judis>

For Petitioner : Mr.J.Raja Kalifulla, Senior
for M/s.C.M.Anandan

For Respondent : Mr.L.Baskaran,
Public Prosecutor
ORDER

This petition has been filed to quash the proceedings in S.T.C.No.501 of 2017 on the file of the Judicial Magistrate Palacode, Dharmapuri District.

2. The respondent lodged a complaint against the petitioner for the offences punishable under Sections 55, 59(1) and 63 of the Food Safety and Standards Act, 2006. On inspecting the premises in which the A1 was doing business in the name and style of M.V.M Best Choice Gutkha factory situated at Mudalipatti, Kariamangalam Taluk, raw materials allegedly kept for manufacturing Pan Parag was found. Thereafter, the samples were drawn and sent for analysis to forensic laboratory and on receipt of the report and after obtaining necessary permission, the respondent had filed a complaint against the petitioner and two others, in which the petitioner was arrayed as A2.

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3. The petitioner is no way connected with the other accused persons and she has been implicated as accused only on the ground that she is the owner of that building, where the A1 is running business. No offence is made as lodged by the respondent as against the petitioner. The respondent filed a counter-affidavit stating that knowing fully that the A1 is running the business of Tobacco products, the petitioner had rented out her premises and therefore alleged that she is also working with the accused persons and running the Gutkha business. As such, she is also liable to be punishable for the offences under Sections 55, 59(1) and 63 of the Food Safety and Standards Act, 2006.

4. Admittedly, the petitioner is the owner of the building comprised in 88/1, Anumandhapuram Village, Palacode Taluk, Dharmapuri District and the same was rented out to the A1 by the agreement dated 15.06.2016 for the monthly rent at Rs.7,500/-. The building was rented in favour of the A1 to run business of Pooja Articles viz., incenses etc., in the name and style of M.V.M Best Choice Factory.

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5. The petitioner is neither a partner nor a Director of the business run by the A1. Except the ownership of the building, which was rented out in favour of the A1, there is no other connection between the petitioner and the other accused persons. Even if the agreement was executed to A1 and A3 to run business in the building, which was rented out by the petitioner herein, neither the

respondent filed a complaint to prosecute the petitioner for the offences punishable under Section 55, 59(1) and 63 of Food Safety and Standards Act, 2006.

6. Section 55 of Food Safety and Standards Act, 2006 denotes Penalty for failure to comply with the directions of Food Safety Officer. If a food business operator or importer without reasonable ground, fails to comply with the requirements of this Act or the rules or regulations or orders issued thereunder, as directed by the Food Safety Officer, he shall be liable to a penalty which may extend to Rs.2,00,000/-.

7. Section 3(o) of the Food Safety and Standards Act, 2006 states that the food business operator in relation to food business means a person by <https://www.mhc.tn.gov.in/judis> whom the business is carried on or owned and is responsible for ensuring the compliance of this Act, rules and regulations made thereunder;

8. As stated above, the petitioner is neither the owner of the business run by A1 nor a partner or Director, except the ownership of that building, which was rented out in favour of the A1.

9. Section 59 of the Food Safety and Standards Act, 2006 speaks about the Punishment for unsafe food that any person who, whether by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is unsafe, shall be punishable

10. Even according to the respondents, accused A1 is manufacturing Tobacco products. It is not a food to call it as an unsafe food. That apart, the petitioner is no way connected with the business conducted by the A1 and A3. Therefore, this evidence is also not made out against the petitioner. <https://www.mhc.tn.gov.in/judis>

11. As far as the offences under Section 63 of the Food Safety and Standards Act, 2006 is concerned, it explains about the punishment for carrying out a business without license. If any person or food business operator (except the persons exempted from licensing under sub-section (2) of section 31 of this Act), himself or by any person on his behalf who is required to obtain licence, manufacturers, sells, stores or distributes or imports any article of food without licence, shall be punishable with imprisonment for a term which may extend to six months and also with a fine which may extend to Rs.5,00,000. The petitioner never conducted any business nor she is a owner / Director of the business conducted by the A1. Therefore, the petitioner need not be punished for the business conducted by the A1 and A3. Hence, no offence is made out as against the petitioner. Since she is only the owner of the building, she has been implicated as an accused.

12. In view of the above, the proceedings in S.T.C.No.501 of 2017 on the file of the Judicial Magistrate Palacode, Dharmapuri District is quashed <https://www.mhc.tn.gov.in/judis> and accordingly, this Petition stands allowed. Consequently, the connected Miscellaneous Petitions are closed.

11.10.2023 skr Index : Yes / No Speaking order / Non-speaking order Neutral Citation : Yes / No To

1. The Food Safety Officer, Mr.P.Nagarajan, Code No:034, Food Safety and Drug Administration Department, Kariamangalam Block, Dharmapuri District.

2. The Public Prosecutor, Madras High Court, Chennai.

<https://www.mhc.tn.gov.in/judis> G.K.ILANTHIRAIYAN, J.

skr 11.10.2023 <https://www.mhc.tn.gov.in/judis>