

Managing Director vs Food Safety Officer on 9 November, 2023

Author: Hemant Chandangoudar

Bench: Hemant Chandangoudar

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NC: 2023:KHC:40241
CRL.P No. 5474 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 9TH DAY OF NOVEMBER, 2023

BEFORE

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR
CRIMINAL PETITION NO. 5474 OF 2022

BETWEEN:

MANAGING DIRECTOR
TIRUMALA MILKS PRODUCTS PRIVATE LIMITED
HAVING ITS REGISTERED OFFICE AT NO.75/8
O.NO.1418/2B, 200 FEET ROAD
THIRUMALAI NAGAR EXTENSION
PONNIAMMAN MEDU, CHENNAIK
THIRUVALLUR, TAMIL NAODU-600 110

REP. BY ITS MANAGING DIRECTOR
MR. RAHUL KUMAR SRIVASTAVA.

...PETITIONER

(BY SRI. DHYAN CHINNAPPA, SENIOR COUNSEL FOR
SRI. CHINTAN CHINAPPA, ADVOCATE)

AND:

1. FOOD SAFETY OFFICER
DASARAHALLI CIRCLE, BBMP NORTH ZONE
PUBLIC HEALTH ORGANISATION BUILDING SESHADRI
ROAD, BENGALURU-560 001.

Digitally signed by B
K
MAHENDRAKUMAR
Location: High
Court of Karnataka

2. SUBAIR BN KUNYAMED

PARK GATE SUPER MARKET

NO.33, 8TH MAIN, 9TH CROSS,
SBM COLONY, MATHIKERE,
BENGALURU-560 054.

...RESPONDENTS

(BY SRI. K NAGESHWARAPPA, HCGP FOR R-1
R-2 SERVED-UNREPRESENTED)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE, 1973 PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.110/2021 FILED U/S 59 OF THE FOOD SAFETY AND STANDARDS ACT, 2006 AND FOOD SAFETY AND STANDARDS REGULATIONS, 2011 R/W SECTION 200 OF CR.P.C. PENDING ON THE FILE OF SPECIAL COURT FOR ECONOMIC

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OFFENCES, BENGALURU AS AGAINST THE PETITIONER HEREIN AND ETC.

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

ORDER

Respondent No.1 Food and Safety Officer of the BBMP North Zone, filed a private complaint under Section 200 of Cr.P.C. alleging that, on 12.3.2021, he visited a shop, in which the milk produced by the petitioner herein stacked for selling to the general public. The Milk which was produced by the petitioner was seized and sent to the food analyst for examination on 12.3.2021. The Food analyst submitted a report on 12.3.2021 stating that the milk produced by the petitioner is unsafe as per the Food Safety and Standards Act, 2006 (for short "Act, 2006")

2. The learned Magistrate after perusing the complaint took cognizance of the offence punishable under Section 59 of the Food Safety and Standards Act, 2006. Taking exception of the same, this petition is filed.

3. Mr. Dhyan Chinnappa, learned senior counsel for the petitioner submits that, the petitioner is the Managing Director of the Tirumala Milks Products Private Limited, a company incorporated under the Indian Companies Act, 1956, which is the purchaser of the milk in question, and the company having not been arrayed as an accused, the petitioner cannot be vicariously held guilty as specified under section 66 of the Act, 2006. He further submits that the milk which was NC: 2023:KHC:40241 seized from the shop was wrapped in Brown paper cover and thereafter sent to the food analyst for examination, therefore, the food inspector has not taken sufficient precaution in sending the milk to the food analyst.

4. Respondent No. 2 is served with notice and has not chosen to appear in person or through his counsel.

5. Considered the submission made by the learned counsel for the petitioner.

6. Admittedly, the subject milk was produced by the Tirumala Milks Products Private Limited, a company incorporated under the Indian Companies Act, 1956. Section 66 of the Act, 2006 deals

with the offences by the companies which specifies that when the offence committed is by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence. In other words, if a person commits the offence as a Director of the company he along with the company shall also be held guilty.

7. The company having not been arrayed as an accused, the petitioner who is the managing director of the company cannot be held vicariously guilty as stated section 66 of the Act, 2006. Therefore, the continuation of the criminal proceedings will be an abuse of the process of law. Accordingly, I pass the following:

NC: 2023:KHC:40241 ORDER

i) The criminal petition is allowed

ii) The impugned proceedings in C.C.No.110/2021 pending on the file of the Special Court for Economic Offences, Bengaluru, insofar it relates to the petitioner herein stands quashed.

Sd/-

JUDGE HR