

Haji Yaqub Qurashi And Another vs State Of U.P. And 2 Others on 4 May, 2022

Bench: Ashwani Kumar Mishra, Rajnish Kumar

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 44

Case :- CRIMINAL MISC. WRIT PETITION No. - 4211 of 2022

Petitioner :- Haji Yaqub Qurashi And Another

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Rajan Upadhyay, Sr. Advocate

Counsel for Respondent :- G.A., Munesh Kumar

Hon'ble Ashwani Kumar Mishra, J.

Hon'ble Rajnish Kumar, J.

This petition has been filed with a prayer to quash the First Information Report in Case Crime No. 0131 of 2022 under Sections 420, 269, 270, 272, 273, 120B I.P.C., Police Station - Kharkhoda, District - Meerut which records that in the premises in question fresh open meat to the extent of 6,720 Kg. along with bones of 1.250 Kg. was found along with processed meat of 2,40,438.5 Kg. along with other materials which is causing huge inconvenience to public at large inasmuch as such meat items were not safely kept and were generated foul odour unbearable for the members of public and is also a public hazard. The First Information Report is challenged primarily on the ground that the commercial activity of processing meat was undertaken in the premises after obtaining permission/license etc., from time to time and that only material which was available in the premises was the packaged meat of 2,40,438.8 Kg. which was kept prior to 2019 but could not be removed on account of Covid-19 pandemic. It is also stated that none of the ingredients of the offences under various Sections have otherwise been made out in the facts of the case.

Sri G.S. Chaturvedi, learned Senior Counsel assisted by Rajan Upadhyay, learned counsel for the petitioners submits that the offences mentioned in the FIR are made punishable only for a period of six months but on account of State amendment the offence under Section 272 and 273 have been made punishable for life and that is why the petitioners have been falsely implicated. It is also stated that petitioners have no direct role in running of the industry and, therefore, their arrest etc., is not required for the purposes of investigation in the matter.

The petition is opposed by learned AGA who submits that prima facie ingredients with regard to commissioning of cognizable offence under the aforesaid Sections are clearly disclosed and, therefore, prayer made to quash the FIR is not liable to be accepted.

We have heard learned counsel for parties and perused the material on record.

Before proceeding further we may note that Parliament has enacted Food Safety and Standards Act, 2006 (herein referred to as the Act of 2006) primarily with an intent to consolidate laws relating to food and to establish appropriate authority for laying down science based standards for articles of food and to regulate their manufacture, storage, distribution etc. Section 31 of the Act of 2006 stipulates that no person shall commence or carry on any food business except under a license. 'Food business' has also been defined in Section 3 to include any undertaking, whether for profit or not and whether private or public, carrying out any of the activities related to manufacture, processing, packaging, storage and transportation etc. It is therefore, apparent that before any person could deal with the packaging of food products, including meat etc., must possess a valid license so as to ascertain as to whether the activity in that regard is being lawfully carried out or not. The petitioners have filed a supplementary affidavit in which documents have been relied upon including license issued by competent authority in that regard bearing License No. 10017051002030. The license is dated 28.3.2017 and was operative till 27.3.2022. No extension of license has been placed on record before us. The allegation in the FIR lodged on 1.4.2022 is on the basis of inspection carried out of the premises on 31.3.2022 which is categorical inasmuch as it has been recorded that in addition to processed meat of 2,40,438.8 Kg. it has been found that 6,720 Kg. of raw meats and bones to the extent of 1,250 Kg. has been brought in. Allegations therefore, are to the effect that without there being any valid license the unit was indulging in not only processing of the meat previously stored but was also indulged in bringing in fresh meat in the premises after the expiry of the license itself. This prima facie gives an indication that the unit was indulging in unlawful act of processing of meat etc., without an authority of law.

So far as argument with regard to ingredients not getting attracted under Section 269 to 273 of the I.P.C., are concerned, it is apparent that Section 269 would get attracted when a person unlawfully or negligently does any act which is likely to spread infection or disease dangerous to life. The action would be treated to be unlawful once it is undertaken without there being due permission or license required in law. Whether the action would lead to infection or disease of any kind which may be dangerous to life is an aspect to be determined during the course of investigation. Allegations part being intact, we would not be justified in embarking upon a factual enquiry at this juncture so as to determine as to whether such an offence is made out or not. Similar would be the situation with regard to applicability of Section 270 to 273 inasmuch as prima facie allegations in that regard

surface on record and we have observed that running of the business was without due authority or lawful permission from the competent authority. Allegations otherwise are that the storage was generating a lot of foul smell and was a safety hazard for the residents of nearby area. Once that be so, we would not be justified in examining facts so as to determine as to whether such allegations are correct or not.

So far as implication of petitioners in the matter is concerned, in the event argument is that petitioners have no specific role they can always avail of appropriate remedy under the Code of Criminal Procedure. It goes without saying that such proceedings shall be conducted on its own merits and in accordance with law. For the reasons recorded above, we are of the considered view that no interference in the FIR is called for.

The writ petition is, accordingly, dismissed.

Order Date :- 4.5.2022 Md Faisal