

Chetan vs The State Of Madhya Pradesh on 5 April, 2023

Author: Subodh Abhyankar

Bench: Subodh Abhyankar

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IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR
ON THE 5th OF APRIL, 2023
MISC. CRIMINAL CASE No. 11320 of 2023

BETWEEN: -

CHETAN S/O MOHANLAL VERMA, AGED ABOUT 36
YEARS, OCCUPATION: BUSINESS R/O 2130
RAJMOHALLA MHOW INDORE (MADHYA PRADESH)

(SHRI L. SHUNONDO CHANDIRAMANI, COUNSEL FOR THE PETITIONER).

AND

THE STATE OF MADHYA PRADESH THROUGH POLICE
STATION MHOW DISTT. INDORE (MADHYA PRADESH)

(SHRI GAURAV RAWAT, G.A. FOR STATE)

This application coming on for orders this day,
following:

ORDER

1] This petition has been filed by the petitioner under Section 482 of the Cr.P.C. for quashment of F.I.R. No.30/2021 dated 30.1.2021 for offence under Sections 420, 272, 273, 34 of the IPC and under Section 52 of the Food Safety and Standards Act, 2006 registered at Police Station-Mhow, District- Indore(Madhya Pradesh) whereby it is alleged that the petitioner was involved in misbranding under the provisions of Food Safety and Standards Act, 2006 (herein after referred to as "the Act of 2006") and has committed the offence as mentioned hereinabove.

2] In brief, brief facts of the case that, the petitioner is the Manager of Signing time: 06-Apr-23 5:15:59 PM M/s Ajab Gajab Food Products and engaged in manufacturing and selling of Namkeen products. On 19.11.2020 Food Inspector Pushpak Kumar Dwivedi made a written complaint and the officials of the Food Department visited the shop of the petitioner and during inspection they took certain samples of the food products from the shop and prepared Panchnama. After taking samples of food products, the same were sent to the Food Laboratory for analysis report. In the analysis report, the samples of the food were found to be misbranded and thus, the FIR has been lodged on

30.1.2021 for the aforesaid offence.

3] Learned counsel for the petitioner has submitted that subsequently on an appeal preferred by the petitioner the samples were forwarded to Referral Food Laboratory, Pune and the samples are found to be of prescribed standard. A photocopy of the document to this effect is placed on record. Counsel has further submitted that merely because of the product was found to be misbranded cannot being tried to lodging of the FIR for offence under Section 420 of the IPC as there is a specific provision under Section 42 of the Act of 2006 which provides for procedure for launching prosecution; whereas the FIR was lodged without following the aforesaid procedure and it is nobody's case that the petitioner was selling the namkeen on the spot as there is no complainant in the case.

Counsel further submits that case of the petitioner is identical to that of co-accused Chetan S/o Mahendra Rathore, who is owner of the establishment where the search took place and the petitioner is employee of said Chetan. The case of the petitioner is at par with other co-accused whose petition has been allowed and case against him has also been quashed in M.Cr.C.No.38204/2021 by order dated 13.1.2023.

Signing time: 06-Apr-23 5:15:59 4] Learned counsel for the respondent/State has opposed the prayer and it is submitted that no case for interference is made out at this stage.

5] Heard learned counsel for the parties and perused the record. 6] On due consideration of the submissions and on perusal of the documents placed on record, this Court finds that in the FIR the allegation against the applicant is that his food products found to be misbranded and admittedly, under the act of 2006; the maximum penalty for misbranding is Rs.3,00,000/-. So far as the invocation of Sections 420 of the IPC in the present case is concerned, it is found that no such ingredients are made out in the fact and circumstances of the case as the only allegation against the petitioner is that misbranding of the food product which does amount to an offence under Section 420 of the IPC. And so far as Sections 272, 273, 34 of the IPC are concerned, the aforesaid offences would also not be made out, in view of the subsequent report of the Food Analyst dated 01.4.2021 by Referral Laboratory, Pune, which has not been disputed by this State.

7] In such facts and circumstances of the case and also taking note of the order passed by this Court in M.Cr.C. No.38204/2022 dated 13.1.2023, this Court is of the considered opinion that no purpose would be served to allow the Trial Court to continue to try the petitioner in a case which in itself cannot be sustained on the basis of the documents and continuation of the trial would only be further waste of valuable time of the trial court.

8] In the result, impugned FIR registered against the petitioner at Crime No.30/2021 dated 30.1.2021 at Police Station-Mhow, District-Indore (M.P.) and the further proceedings in RCT No.1293/2021 are hereby quashed.

9] With the aforesaid, the M.Cr.C. stands allowed.

Signing time: 06-Apr-23 5:15:59 (SUBODH ABHYANKAR) JUDGE MK Signing time: 06-Apr-23 5:15:59