

Shamshudein vs The Food Safety Officer on 13 March, 2024

Author: T.V.Thamilselvi

Bench: T.V.Thamilselvi

Crl.O.P.No.21100

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.21100 of 2022

and

Crl.M.P.No.13777 of 2022

1. Shamshudein
2. Seema Tabasum Malang
3. M/s.Miaray Venures Pvt. Ltd.,
rep. by its Director
Mrs.Seema Tabasum Malang

... Petitioners

Versus

The Food Safety Officer,
Adyar Zone, Code No.550,
Tamil Nadu Food Safety and
Standard Department,
Chennai.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the complaint in C.C.No.1106 of 2022 dated 25.02.2022 on the file of IX Metropolitan Magistrate, Saidapet, and quash the same as erroneous, unsustainable in law and on facts.

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

For Petitioners : Mr.K.Balasubramanian f
Mr.AR. M. Arunachalam
For Respondent : Mr.S.Vinoth Kumar,
Govt. Advocate (Crl. S

ORDER

This Criminal Original Petition has been filed seeking to quash the charge sheet in C.C. No. 1106 of 2022 on the file of IX Metropolitan Magistrate, Saidapet, Chennai.

2. Heard both sides.

3. The petitioners are ranked as A1 to A3 in a criminal case in C.C. No.1106 of 2022 pending before the IX Metropolitan Magistrate, Saidapet, Chennai based on the complaint given by the respondent. According to the respondent, on their routine inspection, they have inspected the 3rd petitioner's premises on 05.07.2019 and while inspecting the consumable commodity, they have seized snacks viz, "Noi <https://www.mhc.tn.gov.in/judis> Party Snack", which is eatable one. However, the said food product contain the food colour "Tartrazine" as one of the ingredients, which is not permitted in that type of food products and they purchased 5 pockets of "Noi Party Snack" from 1st petitioner. Thereafter, the other following sample procedures adopted and the same was sent to food analyst on the same day. After getting food analyst report, it revealed that sample food contain added colouring matter Tartrazine, which should be absent in that food product. Therefore, it was certified as sub-standard and unsafe one under Sec.3(1)(zx), 3(1)(zz)(v)(vii) and (ix) and Sec.26(1)(2)(i)(ii) and

(v) of Food Safety and Standards Act, 2006 (hereinafter called as 'Act'). Hence, the prosecution lodged a criminal case against six accused under Sec.51 and 59(i) of Food Safety and Standards Act (hereinafter called as 'Act'). Now, challenging the said proceedings, the petitioners, who are distributors have approached this court praying to quash the same.

4. The learned counsel for petitioners would submit that the sample was not sent to the Food Analyst within 14 days as prescribed under Sec. 51 and 59(1) of the Act. In fact, though it was collected on <https://www.mhc.tn.gov.in/judis> 08.07.2019, it was sent for analysis only on 01.07.2020 beyond the period of 14 days. So, the procedures followed by the respondent is total violation of legal provisions. Hence, the report, as such is not acceptable one, since because at the stage of analysis report, the said sample might have been expired. Therefore, he prayed to quash the proceedings initiated against the petitioners.

5. By way of reply, the learned Government Advocate (Crl. Side) appearing for respondent would submit that under Sec.46(3) of the Act, it is entitled to send sample food to Food Analyst. Accordingly, the sample food was sent to Food Analyst and on analysis, it was found that it was substandard and unsafe one. If at all, any defence available for them, they have to work out their remedy before the trial court. Hence, he raised strong objections and prayed to dismiss this petition.

6. Records perused. On seeing entire facts, it reveals that as per the contention of learned Government Advocate, the said sample food is substandard one and the report also reveals that it is unsafe one and the <https://www.mhc.tn.gov.in/judis> sample was decomposed as to render it unfit for analysis. Therefore, it is a matter for trial. If at all, the food is unsafe, which would also cause indulgence to the life of human being. Therefore, I am not inclined to quash the proceedings initiated against the petitioners. Liberty is granted to the petitioners to work out their remedy and they can take all their defence before the trial court. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

13.03.2024 Index: Yes/No Internet: Yes/No rpp To

1. The Food Safety Officer, Adyar Zone, Code No.550, Tamil Nadu Food Safety and Standard Department, Chennai.

2. The Public Prosecutor, High Court, Madras.

<https://www.mhc.tn.gov.in/judis> T.V.THAMILSELVI, J.

rpp <https://www.mhc.tn.gov.in/judis> 13.03.2024 <https://www.mhc.tn.gov.in/judis>