

M/S. Suprabhat Agro Food Products vs The State Of Tamilnadu on 17 November, 2021

Author: N. Sathish Kumar

Bench: N.Sathish Kumar

Crl.O.P.No.1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2021

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No. 14792 of 2017

and

Crl.M.P.Nos.9360 and 9389 of 2017

1. M/S. Suprabhat Agro Food Products
Rep by its partner
B.Pavankumar
S/o Nagarangaiah.

2. B. Naveenkumar

..Petitioners

Vs.

1. The State of Tamilnadu
Rep by its Secretary
Department of Health and Family Welfare,
Secretariat, Chennai.

2. The Commissioner of Food Safety,
Office of the commissioner of Food Safety,
5th Floor, DMS Building,
Teynampet, Chennai - 6.

3. The Designated Officer,
District Food Safety Office,
Salem - 636 001.

4. The Food Safety Officer,
Sooramangalam Zone-1,
Salem District - 636 001.

..Respondents

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

Prayer: Criminal Original Petition filed under Section 482 of the Criminal Procedure (Cr.P.C) to call for the records and quash the complaint in STC No.587 of 2016 dated 26.09.2016 on the file of the Judicial Magistrate Court-IV, Salem .

For petitioners	...	Mr.C.Kanagaraj
For respondents	...	Mr.S.Vinoth Kumar Government Advocate (Criminal Side)

ORDER

This Criminal Original Petition has been filed to quash the complaint made in STC No.587 of 2016 dated 26.09.2016 on the file of the Judicial Magistrate Court-IV, Salem.

2. Brief facts which are necessary for the disposal of this petition is as follows:-

<https://www.mhc.tn.gov.in/judis> Food Safety Officer, fourth respondent, had visited the petitioner's firm on 25/3/2014, and lifted the samples and forwarded the same to the Food Analyst Lab, Salem. Report, dated 4/4/2014 of the analyst shows that the sample is Unsafe and Substandard one. Therefore, prosecution has been launched against the petitioner for an offence punishable under Section 3 (1) (a) clause (zz) (i) (iii) and (xii) and Section 26 sub Sections 1 & 2 (i) &

(v) and Section 27 (1) of Food Safety and Standards Act 2006 and Regulation 2.4.14:2 of Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011 and Safety and Standards (Contaminants, Toxin and Residues) Regulations, 2011 and 3 (1) (a) (zx), Sub Clause (i), (iii) and (xii) and Section 26 (1) & 2 (ii) and (v) of Food Safety and Standards Act, 2006.

3. Learned counsel appearing for the petitioners submitted that complaint has been filed with a delay of three years, without any reason for condonation of delay. On the sole ground, seeks for quashment of the complaint in S.T.C.No.587 of 2016.

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4. Learned counsel appearing for the State submitted that complaint was filed within three years. But the reason given is only administrative reasons but now it is submitted that these are all the

technical issues and the same can be gone into only at the time of trial.

5. Heard the learned counsel appearing on either side and I have perused the materials available on record.

6. The prosecution of the case cannot be maintained on a mere filing of the complaint. As per Section 42 of the Food Safety and Standards Act, 2006, the Food Safety Officer, should send the analysis report within fourteen days to Designated Officer with a copy to Commissioner of Food Safety, which has not been done so. It is also not shown that the petitioners were given right to have a second sample analysed. Further, the complaint is also not filed within a period of one year and no reasons for such delay except stating that due to administrative reasons, the prosecution is sanctioned belatedly.

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7. In view of the above, this Criminal Original Petition is allowed. Complaint dated 26/9/2016, in S.T.C.No.587 of 2016, pending on the file of the Judicial Magistrate Court No.IV, Salem is quashed. Consequently, connected Criminal Miscellaneous Petitions are closed.

17.11.2021 mvs To

1. The Judicial Magistrate Court-IV, Salem .
2. The Secretary, State of Tamilnadu Department of Health and Family Welfare, Secretariat, Chennai.
3. The Commissioner of Food Safety, Office of the commissioner of Food Safety, 5th Floor, DMS Building, Teynampet, Chennai - 6.
4. The Designated Officer, District Food Safety Office, Salem - 636 001.
5. The Food Safety Officer, Sooramangalam Zone-1, Salem District - 636 001.
6. The Public Prosecutor, Madras High Court, Chennai <https://www.mhc.tn.gov.in/judis> N. SATHISH KUMAR,J mvs.

17.11.2021 <https://www.mhc.tn.gov.in/judis>