
(2009) 07 MAD CK 0075

In the Madras High Court

Case No : Criminal O.P. No. 16997 of 2007 and M.P. No. 1 of 2007

M. Karthikeyan, M. Mohanraj, S. Balaji and M. Nachiyappan APPELLANT

Vs

The Food Inspector, 3rd Grade Municipality RESPONDENT

Date of Decision : 24-07-2009

Acts Referred:

Prevention of Food Adulteration Act, 1954 — Section 16(1), 2, 7
Prevention of Food Adulteration Rules, 1955 — Rule 32

Citation : (2009) 07 MAD CK 0075

Hon'ble Judges : C.S. Karnan, J

Bench : Single Bench

Advocate : R. Gandhi for R.G. Narendhiran, for the Appellant; R. Muniappa Raj, Government Advocate (Crl. Side), for the Respondent

Final Decision : Allowed

Judgement

C.S. Karnan, J.—The petitioner/accused has filed the above Criminal Original Petition No. 16997 of 2007 to call for the records in C.C.

No. 96 of 2007 on the file of the learned Judicial Magistrate No. III, Vellore and quash the same.

2. The respondent/complainant is the Food Inspector, III Grade Municipality, Dharapadavedu, Vellore District has filed the complaint against

accused Nos. 1 to 4 in C.C. No. 96 of 2007 before the Judicial Magistrate No. III, Vellore-9, for an alleged offence under Sections 7(ii) and

16(1)(a)(i) r/w. Section 2(ix)(k) and also Rule 32 of the Prevention of Food Adulteration Act and Rules 1955. The respondent states that on

29.10.2001, he went to the first accused's shop and took some packets of 100g "Sakthi Turmeric Powder" for analysis. The accused had stated

that he had purchased the said "Sakthi Turmeric Powder" from his stockist, Sri Balaji Traders Stockist and Distributors, D-70, Nethaji market,

Vellore-632 004. The respondent has further stated that the label of the manufacturer was in the name of Sakthi Trading Company-6,

Mamarathupalayam, Erode 638 004, Tamil Nadu. Further, the said "Sakthi Turmeric Powder" was sent via ABT Parcel Service to King

Institute for checking the quality of the said "Sakthi Turmeric Powder". It is alleged by the respondent that the public analyst, Food Analysis

Laboratory, King Institute, Chennai-32 had tested the samples and sent a report in 637/2001-2002 dated 14.12.2001 that the said "Sakthi

Turmeric Powder" was "misbranded". Consequent to this, the respondent has filed the complaint before the Magistrate.

3. The Judicial Magistrate No. III, Vellore-9 has taken this complaint on his file as C.C. No. 96 of 2007 and issued summons.

4. The petitioners/accused 1 to 4 have contended that the 4th petitioner is Manager representing the Company M/s. Sakthi Trading Company and

engaged in the manufacture of high quality turmeric powder and has the unit in Erode. The 3rd petitioner is the dealer of the 4th petitioner and the

petitioners 1 and 2 are jointly running shop selling provisions in Vellore. The 3rd petitioner is the dealer/distributor of the turmeric powder of the

4th petitioner in Vellore District. The entire packing is done at Erode under stringent quality control supervision. The packing materials are printed

in bulk showing the Trade Mark and trading style unique in the 4th petitioner. The packing label contains the details as prescribed under the

Prevention of Food Adulteration Act, 1954 and the Rules made thereunder. The product is marketed under the brand name "Sakthi Turmeric

Powder".

5. The petitioners contend that there is no allegation in the complaint as regards adulteration in the food article but the only allegation is that the

sample is misbranded since the Best before Declaration is not in accordance with the amended Rule 32 of the Prevention of Food Adulteration

Rules, 1955. It is alleged by the petitioners that the only error contravening Rule 32(i) of the Prevention of Food Adulteration Rules, 1955 is the

marking on the packages sold and only on this account, the prosecution has been launched. It is alleged by the petitioners that he had followed the

directive given by the Joint Director (PFA), State Local Health Authority in the marking of labels and as such they have been unreasonably

charged of having violated Rule 32 of the Rules which has compelled the petitioners to approach this Honourable Court.

6. It is alleged by the petitioners that the 4th petitioner has been printing in their label, ""Best before within...months from the date of packaging.

Since the 4th petitioner is a bulk manufacturer, the packaging materials and labels are also printed in bulk. The State Authority, under the Act,

namely, the Joint Director (PFA), Chennai-6 by his proceedings R. No. 24975/PFA/2001/S4-4 dated 28.09.2001 had issued a circular that food

products should contain the markings as mentioned above and specifically stated that the above mentioned contents conform to Rule 32 of the

Rules.

7. The petitioners have cited that this Honourable High Court in Crl.O.P. Nos. 32432 to 32436 of 2002 dated 30.12.2002 and Crl.O.P. No.

6825 of 2003 dated 12.03.2003 and Crl.O.P. No. 9072 of 2003 dated 17.07.2003 has quashed similar complaints for alleged "misbranding".

The petitioners have contended that they have not deceived, misled the purchasers as regards the character, quality or quantity of its product. The

petitioners further contended that there is no complaint from the public, so far, regarding quality and quantity of the products sold by them. Further,

even as per the respondent, the food article is not adulterated. Therefore, the learned Senior Counsel Mr. R. Gandhi appearing for the petitioners

has contended that further proceedings in pursuant of the impugned notice would be an abuse of the process of law resulting in irreparable hardship

to the petitioners and their reputation and hence pray for the complaint to be quashed.

8. Considering the facts and circumstances of the case and after hearing the arguments of both the learned Counsels for their respective parties, this

Court is of the view that the grounds relied on by the petitioners to establish their case are strong and hence the complaint has got to be quashed.

Therefore, Criminal Original Petition No. 16997 of 2007 is allowed and accordingly, the complaint in C.C. No. 96 of 2007 before the Judicial

Magistrate No. III, Vellore is quashed. Consequently, connected Miscellaneous petition is closed.