

(2013) 07 MAD CK 0026

In the Madras High Court

Case No : Criminal O.P. No. 3097 of 2009 and M.P. No. 1 of 2009

N. Prabhakaran and Others

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 15-07-2013

Acts Referred:

Citation : (2013) 4 MLJ(Cri) 71

Hon'ble Judges : K.B.K. Vasuki, J

Bench : Single Bench

Advocate : R. Karthikeyan, for the Appellant; V. Arul, G.A. (Crl. Side), for the Respondent

Judgement

K.B.K. Vasuki, J.—The petitioners 1 to 3 are arrayed as A1 to A3 in C.C. No. 18 of 2008 on the file of Judicial Magistrate No. 1, Attur,

Salem District. The present petition is filed to quash the criminal proceedings initiated against the petitioners. The petitioners herein are the licensee-

cum-owner of Sri Ranga Trading Company and owners of K.M.S. Enterprises. The respondent Food Inspector has made surprise cheque at 5.00

p.m. on 26.2.2007 to Sri Ranga Trading company, where he took samples of Shri Jayam Sambar Dhall, after duly serving Form VI on the owner

of the shop and the samples were also, after complying with all the legal formalities, sent for examination to Public Analyst, who after conducting

analysis, sent his report as follows:

Examination of the Label:

Opinion: I am of the opinion that the sample misbranded as it is not labelled in accordance with the requirements of with Rule 37 of PFA Rules

1955.

2. The respondent-Food inspector has, on the basis of the Public Analyst report, approached the Director of Public Health and Preventive

Medicine for appropriate sanction for lodging prosecution against the licensee, dealer and manufacturer of the food item and after obtaining

sanction, criminal prosecution was lodged against the petitioners herein for the offences under Sections 7(ii) and 16(i)(a)(i) r/w Section 2(ix)(g) and

(k) of Prevention of Food Adulteration Act 1954 (hereinafter shortly called as "Act") and Rule 37 of the Prevention of Food Adulteration Rules,

1955 (hereinafter shortly called as "Rules"). According to the prosecution, the pictures printed on the label of the above mentioned items are false

or misleading amounting to misbranding, which is in contravention of the relevant provisions of law as referred to above. On receipt of the

summons, A1 to A3 have come forward with the present petition to quash the proceedings initiated against them.

3. It is contended on the side of the petitioners that the opinion of the Public Analyst is baseless and unfounded and is not supported by any details

or reasoning as to how the names of the vegetables mentioned in the label is false or misleading. It is sought to be argued that the purpose for

which the vegetables are mentioned, is to show that the article of food is used for cooking the vegetables shown in the picture and the same cannot

be said to be exonerating or misleading the quality of the foods item in question.

4. Heard both sides.

5. In order to better appreciate the argument advanced on both sides, it is but relevant to look into Rule 37, which is extracted hereunder:

37. Labels not to contain false or misleading statements:

A label shall not contain any statement, claim, design, device, fancy name or abbreviation which is false or misleading in any particular concerning

the food contained in the package, or concerning the quantity or the nutritive value or in relation to the place of origin of the said food:

(Provided that this rule shall not apply in respect of established trade or fancy names of confectionery, biscuits and sweets such as Barley, Sugar,

Bulls, Ice-cream cracker, or in respect of aerated waters such as Ginger Beer or Gold Spot or any other name in existence in international trade

practice.)

6. In this case, the label of the packet does not contain any other statement

except the picture of the vegetables and the same cannot be at any strength of imagination construed to be either false or misleading or concerning the quantity or the nutritive value of the food contained in the packet. The Hon"ble Supreme Court in the judgment reported in Parakh Foods Ltd. Vs. State of A.P. and Another, under identical circumstances, while dealing with the pictures of vegetables printed on the label of Soyabean oil, has observed that ""the same do not in any way indicate the quality of soyabean oil as "super refined", "extra refined", "micro refined", "double refined", ultra refined", "anti-Cholesterol", "cholesterol fighter", "soothing to heart", "cholesterol friendly", "saturated fat free" etc. nor it indicates the exaggeration towards the quality of the product to come within the mischief of Rule 37D of the PFA Rules. The Supreme Court, by observing so, was pleased to disagree with the finding of the High Court that the article of food (soyabean oil) was misbranded. The ratio laid down by the Hon"ble Supreme court was also followed by the learned brother Judge (SNJ) in the order dated 19.11.2011 made in Crl. O.P. No. 1944/2009, which was filed by one S. Anbumane and M/s. Asian Dhall Industries Limited, who was arrayed as A4 and A5 in C.C. No. 18 of 2008, for the same relief. The learned brother Judge, having observed that the matter printed on the label was neither false nor misleading and the same could not be in violation of Rule 37 so as to sustain the prosecution, has quashed the proceedings against A4 and A5. In my considered view, the same benefit shall also be extended to the petitioners herein, who are the accused 1 to 3 in the same proceedings. Hence, this Criminal Original Petition is allowed and the proceedings in C.C. No. 18/2008 on the file of Judicial Magistrate No. 1, Attur, Salem stands quashed insofar as the petitioners/A 1 to A3 are concerned. Consequently, connected miscellaneous petition is closed.