
(2021) 01 RAJ CK 0014

In the Rajasthan High Court

Case No : Criminal Miscellaneous (Petition) No. 931 Of 2012

Nirmla Soni And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 05-01-2021

Acts Referred:

Prevention of Food Adulteration Act, 1954 — Section 7, 16
Code Of Criminal Procedure, 1973 — Section 482
Prevention of Food Adulteration Rules, 1955 — Rule 50(1)

Citation : (2021) 01 RAJ CK 0014

Hon'ble Judges : Sandeep Mehta, J

Bench : Single Bench

Advocate : R.S. Mankad, Farzand Ali, B.R. Bishnoi

Final Decision : Allowed

Judgement

The instant criminal misc. petition has been preferred by the petitioners herein seeking quashing of the proceedings of Criminal Case No. 642/2011

registered for the offences under Section 7/16 of the Prevention of Food Adulteration Act, 1954 and Rule 50 (1) of the Prevention of Food

Adulteration Rules, 1955, pending in the court of the Chief Metropolitan Magistrate ('CMM'), Jodhpur Metro.

Brief facts relevant and essential for disposal the instant misc. petition are noted hereinbelow:-

The Food Inspector, Jodhpur visited premises of M/s Shriram International (Unit of Shriram Hotel), Residency Road, Ratanada, Jodhpur on

29.04.2011, where he met Vikas Shrivastav (Seller & General Manager). Food articles viz. vegetables, Rotis, Paneer Pakoda etc. were being

prepared and served to the public in the hotel. The Food Inspector collected sample of food article Paneer (cottage cheese) from the cold storage of

the hotel. The sample of Paneer was divided into three parts, one of which was forwarded to the Local Health Authority, Jodhpur for analysis from

where, a report dated 25.05.2011 was received to the effect that the food article (Paneer) was adulterated. The Food Inspector thereafter, collected

details of the partners/directors of the firm M/s Shriram International and was allegedly apprised that the petitioners herein, Shri Bhanwarlal Soni and

Shri Om Prakash Soni were the partners of the firm which was operating the hotel. Accordingly, a complaint came to be filed by the Food Inspector in

the court of CMM, Jodhpur against the petitioners and few others with the allegations that the accused persons being the directors/partners of the firm

were liable to be prosecuted for the offences under the Prevention of Food Adulteration Act as well as under the Prevention of Food Adulteration

Rules as adulterated food article Paneer was being sold to public from the firm's premises.

The petitioners have filed the instant misc. petition with the precise assertion that they were not connected with the firm in question in any manner

whatsoever. The firm was reconstituted in the year 2003 whereafter, only Shri Bhanwarlal Soni and Shri Om Prakash Soni remained its partners, and

thus, prosecution of the petitioners in this case is bad in the eyes of law. It has also been pleaded that there were no allegation in the entire complaint

regarding the petitioners being responsible for day to day affairs of the firm in any manner whatsoever and so, their prosecution is unwarranted. In

support of his contentions, Shri R.S. Mankad, learned counsel representing the petitioners placed reliance upon the following judgments:-

1. Pepsico India Holdings Private Ltd. Vs. Food Inspector & Anr. : (2011) 1 Supreme Court Cases 176

2. Shyam Lal & Ors. Vs. State of Rajasthan : 2012 (2) CJ (Crl.) (Raj.) 815 He urged that proceedings of the complaint lodged against the petitioners

are totally bad in the eyes of law and amount to a gross abuse of process of court and hence, the same deserves to be quashed qua the petitioners.

Learned Public Prosecutor, on the other hand vehemently and fervently opposed the submissions advanced by petitioners' counsel. He urged that the

grounds laid forth by the petitioners for quashing of the proceedings can be appreciated by the trial court after evidence is recorded at the trial and not

by this Court while exercising its inherent powers under Section 482 Cr.P.C. Nonetheless, he is also not in a position to dispute the fact that there is no

allegation whatsoever in the entire complaint that the petitioners were in any manner responsible for the day to day affairs of the firm in question.

I have given my thoughtful consideration to the submissions advanced at bar and have gone through the impugned complaint.

It is apparent that other than bare recital in para No.8 of the complaint, which reads as below:-

8- - ,

, , , / /2011/1009

28.07.2011 / ,

There is not even a whisper in the entire body of complaint that the petitioners herein, were in any manner responsible for the day to day affairs of the

firm in question. The accused No.1 Vikas Srivastava has been arraigned as the Seller and the General Manager of the hotel and thus, he can be

presumed to be the person responsible for the day to day affairs thereof. Law is well settled by a catena of judgments, some of which are referred to

supra, that in a prosecution under the Food Adulteration Act, where the accused is a Company or a firm, there have to be specific allegations

supported by evidence that the director/directors or partner/partners concerned who are sought to be prosecuted were responsible for the day to day

affairs of the company/firm and the prosecution cannot be allowed if the complaint lacks in such allegations.

On a perusal of para No.8 of the complaint referred to supra, indicating the entire substratum of prosecution regarding the arraignment of the

petitioners as accused in this case, it is clear that there is not even a whisper that being the partners of the firm M/s Shriram International, the

petitioners were in any manner responsible for its day to day affairs. Thus, the controversy at hand is squarely covered by the ratio of the judgments

referred to supra.

Accordingly, the proceedings of the impugned complaint deserve to be quashed qua the petitioners. As an upshot of the above discussion, the criminal

misc. petition is hereby allowed. The proceedings of the impugned complaint are quashed qua the present petitioners. However, trial of the remaining

accused persons shall proceed as per law. Stay application is disposed of.