

IN THE HIGH COURT OF MADHYA PRADESH
BENCH AT INDORE

(SB: Hon'ble Mr. Justice Alok Verma)

MCRC No.07/2011

Adhiraj Sareen and others

Vs.

State of MP and others

Shri HY Mehta, learned counsel for the applicants.
Smt. Mamta Shandilya, learned counsel for the respondent/State

ORDER

(Passed on this 16th day of July, 2015)

This application is filed under section 482 of Cr.P.C. for quashing and setting aside the proceeding in Criminal Case No.17365/2010 pending before learned JMFC at Indore.

This criminal proceeding arises out of complaint filed by the Food Inspector, Food and Drug Administration, District – Indore on 19.11.2010 under section 7(i) of Prevention of Food Adulteration Act, 1954, Rule 50(1) of the Rules framed under the Act, 1955 and also for violation of section 7(v) and sections 16(1)(a)(i)(ii) of the Food Adulteration Act.

According to the facts giving rise to this application are that on 02.02.2010, Food Inspector conducted inspection in the

premises of M/s Bunge India Private Limited situated at 75-76, SK-1 Compound, Dewas Naka, Indore. In the premises, one Ritesh Mehta, who is arraigned at serial No.1 of the complaint as accused, was found by the Food Inspector and he introduced him to be a Depot Manager of the company. The licence for storing the food items was demanded by the Food Inspector which was not produced and subsequently, the Food Inspector purchased three packets of mustered oil and completed formalities for sending the samples of oil to the laboratory.

Public Analyst found these samples adulterated. Accordingly, present complaint was filed before the concerned Judicial Magistrate, Indore and the same was registered as Criminal Case No.17365/2010.

In the complaint, present applicants were arraigned as accused No.2 to 5. They are stated to be the Director of the company. Similar allegations were levelled against them in the second column of the complaint which gives particulars of the offence. It is written there in that :-

अपमिश्रित डाल्डा कच्ची धानी मस्टर्ड आइल का
विक्रय/संग्रह करना एवं बिना अनुज्ञप्ति के खाद्य पदार्थ
का विक्रय/संग्रहण/वितरण करना।

This application for quashment of the proceeding in the aforementioned criminal case is filed on the ground that under

section 17 of the Food Adulteration Act (hereinafter referred as the Act), it is directed that the person who has been nominated under sub section 2 to be incharge of and responsible to the company for conduct of business of the company and where no such person is nominated in sub section 2, the person who is incharge of and responsible to the company for business of the company shall be liable to be punished for any offence committed by the company. So far as the present applicants are concerned, they are Directors of the company and were not directly connected with the conduct of storage of food material.

Learned counsel for the applicants placed reliance on the judgment of Hon'ble the Supreme Court in the case of **Pepsico India Holdings Pvt. Ltd. Vs. Food Inspector and another** reported in 2010 (2) FAC 310. In this judgment, while elucidating the scope of section 17 of the Act, hon'ble the Supreme Court observed that a mere bald statement that a person is Director of the company against which certain allegations is made, is not sufficient to make such Director liable in specific allegation regarding his role in the management of the company and, therefore, Hon'ble the Supreme Court quashed the prosecution against the applicants. In this judgment, in para 39 it is observed that :-

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It is now well established that in a

complaint against a Company and its Directors, the Complainant has to indicate in the complaint itself as to whether the Directors concerned were either in charge of or responsible to the Company for its day-to-day management, or whether they were responsible to the Company for the conduct of its business. A mere bald statement that a person was a Director of the Company against which certain allegations had been made is not sufficient to make such Director liable in the absence of any specific allegations regarding his role in the management of the Company.

The principle laid down by Hon'ble the Supreme Court in the case of **Pepsico** (supra) was followed by the Co-ordinate Benches of this Court in the case of **Mrs. Shukla Wassan Vs. State of MP** reported in 2011 (2) FAC 312, in the case of **Kumar Mangalam and others Vs. State of MP and others** reported in 2014 (1) FAC 192, in the case of **Kailash Agrawal and others Vs. State of MP and another** reported in 2010 (2) FAC 181 and also in the case of **Joel. A. Peres and others Vs. State of MP through Food Inspector, Food and Drug Administration Vidisha , M.P. and others** reported in 2008 (1) FAC 165. Following the principle laid down in the case of **Pepsico** (supra), it is apparent that in the present case, the applicants were only arraigned as accused because

they were at the relevant time, Director of the company. No specific allegations were made against them and no specific role in commission of crime was assigned to them. No material has been collected by the Food Inspector to show that they were incharge of the company and were responsible for its premises at Indore. In this view of the matter, the complaint against the present applicants is liable to be quashed and present applicants are entitled to be discharged.

Accordingly, for the reasons stated above, the application is allowed. The proceedings against the present applicants namely - Adhiraj Sareen, Sudhakar Rao, Sanjay Jain and Subramaniam Natraj in Criminal Case No.17365/2010 are quashed. They are discharged from charges under sections 7(i), 7(v) and 16(1)(a)(i)(ii) of the Food Adulteration Act and Rules thereunder.

With the aforesaid observations and directions, the application stands disposed of.

C.c as per rules.

(Alok Verma)
Judge