



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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+ **CRL.M.C. 7013/2022 AND CRL.M.A. 27147/2022, CRL.M.A. 26291/2024, CRL.M.A. 26292/2024**

DHARMENDRA HANSRAJ KOTAK & ORS.Petitioners

Through: Mr. Rajesh Batra, Ms. Sonia Kukreja,
Mr. Rohit Chandra & Ms. Sadhika
Kochhar, Advs.

versus

STATE OF DELHI & ANR.Respondents

Through: Mr. Digam Singh Dagar, APP

+ **CRL.M.C. 328/2023 AND CRL.M.A. 1303/2023, CRL.M.A. 26293/2024, CRL.M.A. 26294/2024**

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CORAM:

HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present petitions raise substantially identical questions of fact and law and arise out of prosecutions initiated under the provisions of the Food Safety and Standards Act, 2006 (hereinafter referred to as the "FSS



Act”) concerning samples of *MAGGI Noodles* lifted during the nationwide sampling exercise undertaken in the year 2015. Since the issues involved in both matters are common and the reliefs sought are substantially similar, both petitions were heard together and are being decided by this common judgment.

2. The petitioners invoke the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973, seeking quashing of the criminal complaints instituted by the Department of Food Safety, the orders taking cognizance and issuing summons passed by the learned Trial Court, the subsequent orders dated 30.11.2022 whereby the discharge applications were dismissed as not maintainable, and all consequential proceedings arising therefrom.

3. As the factual background and legal issues involved in both petitions are largely common, the relevant facts are noticed hereinafter.

4. The prosecution case, as set out in the complaints, is that during the month of May, 2015, Food Safety Officers of the Department of Food Safety, Government of NCT of Delhi, collected samples of *MAGGI Noodles* from different retail outlets situated within the National Capital Territory of Delhi. The samples were drawn after following the procedure prescribed under the FSS Act and the Rules framed thereunder. Notices in the prescribed forms were issued, panchnamas were prepared, the samples were divided into four counterparts, duly packed, sealed and labelled, and one counterpart in each case was forwarded to the Food Analyst for analysis while the remaining counterparts were deposited with the Designated Officer.



5. In Complaint Case No. 47/2015, the sample was lifted on 25.05.2015 from M/s Gupta Store, Shop No. 47, Gole Market, Connaught Place, New Delhi, where accused Raj Kumar Gupta was stated to be the Food Business Operator and partner of the establishment. In Complaint Case No. 56/2015, the sample was lifted on the same date from the retail establishment of accused Virender Narula. In both cases, the samples consisted of sealed packets of *MAGGI Noodles* which were available for sale for human consumption.

6. Upon analysis, the Food Analyst, by reports dated 02.06.2015, opined that the samples were “unsafe” within the meaning of the FSS Act on the ground that the lead content in the *masala tastemaker* exceeded the prescribed maximum limit of 2.5 ppm. In the other complaint, it was further alleged that the product was also misbranded on account of the declaration “No Added MSG” appearing on the label.

7. Copies of the Food Analyst's reports were thereafter forwarded to the respective Food Business Operators as well as to the manufacturer, M/s Nestlé India Limited, in terms of Section 46(4) of the FSS Act read with the applicable Rules. According to the prosecution, none of the accused exercised their right to seek analysis of the sample by the Referral Food Laboratory within the prescribed period.

8. During the course of investigation, the Food Safety Department traced the chain of distribution of the food article. It was alleged that the sampled product had been supplied by M/s Dhingra Brothers, a partnership firm, through its responsible partners, and had been manufactured by M/s Nestlé India Limited. The prosecution further alleged that the nominated



representatives of the manufacturing company, as well as the persons stated to be responsible for the day-to-day affairs of the supplier firm and the retail establishments, were liable for prosecution under the provisions of the FSS Act.

9. Upon completion of the investigation, the Designated Officer forwarded the case records to the Commissioner, Department of Food Safety, Government of NCT of Delhi, who accorded consent under Section 30(2)(e) of the FSS Act for institution of prosecution. Thereafter, separate complaints came to be instituted before the learned Trial Court alleging violations of Sections 20, 26 and 27 of the FSS Act, punishable under Section 59 thereof.

10. By orders dated 06.11.2015 and 11.01.2016 respectively, the learned Additional Chief Metropolitan Magistrate, upon perusing the complaints and the accompanying material, found sufficient grounds to proceed against the accused persons and directed issuance of summons for the offences alleged under the FSS Act.

11. During the pendency of the proceedings before the learned Trial Court, the accused persons moved applications seeking discharge. However, by separate orders dated 30.11.2022, the learned Trial Court dismissed the discharge applications as not maintainable.

12. Aggrieved by the institution of the complaints, the orders taking cognizance and issuing summons, the subsequent orders dismissing the discharge applications, and the continuation of the criminal proceedings, the petitioners have preferred the present petitions invoking the inherent jurisdiction of this Court.



SUBMISSIONS ON BEHALF OF THE PETITIONER:

13. Learned counsel appearing on behalf of the petitioners submits that the present petitions deserve to be allowed as the continuation of the criminal proceedings would amount to an abuse of the process of law. It is submitted that the prosecution is founded solely upon the reports of the Food Analyst, which no longer survive in view of the subsequent developments and judicial pronouncements concerning the testing of *MAGGI Noodles*.

14. It is submitted that the very basis of the prosecution ceased to exist after the judgment dated 13.08.2015 passed by the Hon'ble Bombay High Court, whereby the ban imposed on *MAGGI Noodles* was set aside. Learned counsel submits that the Bombay High Court categorically held that the laboratories whose reports formed the basis of the ban did not satisfy the statutory requirements under the FSS Act, inasmuch as they were neither NABL accredited nor notified by the Food Authority under Section 43 of the Act. Consequently, the reports issued by such laboratories were held to be invalid.

15. Learned counsel further submits that, pursuant to the directions of the Bombay High Court, fresh samples of *MAGGI Noodles* were drawn and tested by three accredited and notified laboratories. It is contended that all such reports uniformly recorded that the lead content in the product was within the prescribed permissible limit of 2.5 ppm, thereby establishing the safety of the product.

16. It is further submitted that proceedings relating to the same controversy also came to be considered by the Hon'ble Supreme Court,



wherein samples were directed to be analysed by the Central Food Technological Research Institute (CFTRI), Mysore, a Referral Food Laboratory under the FSS Act. Learned counsel submits that the reports furnished by CFTRI also found the lead content to be within the prescribed limits, and the Hon'ble Supreme Court, while disposing of the proceedings, directed that the CFTRI reports would constitute the basis for adjudication.

17. Learned counsel submits that the Special Leave Petition preferred by the FSSAI against the judgment of the Bombay High Court also came to be dismissed, thereby rendering the findings recorded by the Bombay High Court final. It is further submitted that the National Consumer Disputes Redressal Commission ("NCDRC"), while deciding the consumer proceedings arising out of the same controversy, also held that there was no evidence to establish that *MAGGI Noodles* was unsafe and accepted the reports of the Referral Food Laboratory as conclusive.

18. Learned counsel submits that under Section 46(4) of the Food Safety and Standards Act read with the applicable Rules, the report of the Referral Food Laboratory supersedes the report of the Food Analyst. It is contended that once the Referral Food Laboratory has reported that the product conforms to the prescribed standards, the reports of the State laboratories lose all evidentiary value and no prosecution can continue solely on the basis of such superseded reports.

19. It is further submitted that the Food Laboratory, Government of NCT of Delhi, on whose report the present prosecution has been instituted, was neither a notified laboratory under Section 43 of the FSS Act nor accredited by the National Accreditation Board for Testing and Calibration



Laboratories (NABL). Accordingly, it is contended that the report relied upon by the prosecution is itself without legal sanctity and cannot constitute the basis for launching criminal proceedings.

20. Learned counsel also submits that the consent granted by the Commissioner under Section 30(2)(e) of the FSS Act for institution of prosecution is liable to be held invalid, inasmuch as it was accorded on the basis of reports which had already been declared unsustainable by the Bombay High Court. Consequently, the very foundation of the complaints as well as the orders taking cognizance stands vitiated.

21. It is lastly submitted that in view of the subsequent findings returned by the Referral Food Laboratory, the Bombay High Court, the Hon'ble Supreme Court and the NCDRC, no useful purpose would be served by permitting the criminal prosecutions to continue. The continuation of the proceedings, according to the petitioners, would amount to an abuse of the process of the Court. It is, accordingly, prayed that the complaints, the summoning orders, the orders dismissing the discharge applications and all consequential proceedings be quashed.

SUBMISSION ON THE BEHALF OF THE STATE:

22. *Per contra*, learned APP for the State submits that the present petitions are devoid of merit and deserve to be dismissed. It is submitted that the complaints were instituted after following the procedure prescribed under the FSS Act and sufficient material existed before the learned Trial Court for taking cognizance and issuing summons against the petitioners.

23. Learned APP submits that the sampling proceedings were conducted



strictly in accordance with the provisions of the FSS Act. The Food Safety Officers visited the respective premises, purchased samples of the food articles in their original sealed condition after payment of consideration, prepared the statutory documents including Form VA and Panchnama, and sealed the samples in accordance with the prescribed procedure. It is submitted that the petitioners participated in the sampling proceedings and signed all the contemporaneous documents without raising any objection.

24. It is further submitted that one counterpart of the sample was duly forwarded to the Food Analyst for analysis, while the remaining counterparts were preserved in accordance with law. The Food Analyst, upon examination of the samples, reported that the lead content exceeded the prescribed maximum limit of 2.5 ppm. In one of the complaints, the Food Analyst also reported that the product was misbranded for making misleading declarations on the label relating to “No Added MSG” and for non-disclosure of Monosodium Glutamate.

25. Learned APP submits that copies of the Food Analyst's reports were duly supplied to all the Food Business Operators, suppliers and the manufacturing company in terms of Section 46(4) of the Act, thereby affording them the statutory opportunity of seeking referral analysis by the Referral Food Laboratory. Despite such opportunity, none of the petitioners exercised the statutory remedy available under the Act. It is contended that having consciously chosen not to avail the statutory remedy at the relevant stage, the petitioners cannot now seek to question the Food Analyst's reports in proceedings under Section 482 Cr.P.C.

26. Learned APP further submits that the contention of the petitioners



regarding the Food Laboratory, Government of NCT of Delhi not being an accredited or notified laboratory is misconceived. It is submitted that under Section 98 of the Food Safety and Standards Act, the existing State Food Testing Laboratories were permitted to continue discharging their functions until laboratories were formally notified under Section 43 of the Act. Reliance is placed upon the communications issued by the FSSAI dated 05.07.2011 and 06.09.2018, whereby State Food Laboratories were permitted to continue functioning during the transitional period. It is further submitted that the Government of NCT of Delhi subsequently obtained NABL accreditation for its laboratory on 09.05.2019. Therefore, merely because NABL accreditation was granted subsequently would not invalidate the reports issued during the transition period.

27. Learned APP submits that the subsequent judgments of the Bombay High Court, the Hon'ble Supreme Court and the National Consumer Disputes Redressal Commission relied upon by the petitioners do not automatically nullify the present prosecutions. According to the respondents, those proceedings arose in a different factual context concerning the nationwide recall and ban imposed on *MAGGI Noodles* and cannot be treated as determinative of the individual criminal prosecutions arising from independent samples collected by the Food Safety Officers in Delhi.

28. It is further submitted that the reports of the Food Analyst constituted sufficient material for the learned Trial Court to take cognizance. At the stage of issuance of summons, the Court is only required to examine whether a *prima facie* case exists and is not expected to conduct a



meticulous appreciation of the evidence or determine the correctness of the allegations.

29. Learned APP lastly submits that the pleas raised by the petitioners involve disputed questions of fact requiring appreciation of evidence during trial, including the evidentiary value of the Food Analyst's report and the effect of the subsequent laboratory reports relied upon by the petitioners. Such issues cannot appropriately be adjudicated in proceedings under Section 482 Cr.P.C. It is, therefore, prayed that the present petitions be dismissed and the proceedings pending before the learned Trial Court be permitted to continue in accordance with law.

ANALYSIS AND FINDINGS:

30. I have heard learned counsel appearing for the petitioners and the learned APP for the State and have carefully examined the record.

31. The present petitions invoke the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure for quashing the complaints and the summoning orders arising out of the alleged non-conformity of samples of *Maggi Noodles* collected during May, 2015. Though the power under Section 482 Cr.P.C. is to be exercised sparingly, it is equally well settled that where continuation of criminal proceedings would amount to abuse of the process of law or where the very foundation of the prosecution has ceased to exist, the High Court would be justified in exercising its inherent jurisdiction. Reference may be made to *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335, and *Rajiv Thapar v. Madan Lal Kapoor*, (2013) 3 SCC 330.

32. The prosecution in the present complaints is founded entirely upon



the Food Analyst's reports declaring the sampled product to be "unsafe" on account of alleged excess lead content. These reports constitute the sole basis for the institution of the complaints and the subsequent summoning orders.

33. However, the controversy surrounding *Maggi Noodles* did not remain confined to isolated prosecutions. Following the nationwide sampling exercise undertaken pursuant to the directions issued by the FSSAI in May, 2015, the regulatory action taken against the product became the subject matter of extensive judicial scrutiny before the Bombay High Court.

34. The Bombay High Court, in its judgement in *Nestle India Limited v. Food Safety and Standards Authority of India.*, 2015 SCC OnLine Bom 4713, after examining the statutory scheme under the Food Safety and Standards Act, held that laboratories conducting analysis under the Act must satisfy the twin statutory requirements of being NABL accredited as well as notified by the Food Authority under Section 43 of the Act. The Court found that the reports forming the basis of the regulatory action suffered from serious legal infirmities and consequently set aside the impugned ban orders. The Court further directed fresh sampling and testing through duly accredited and notified laboratories.

35. The matter thereafter travelled to the Hon'ble Supreme Court. During the pendency of the proceedings, the Supreme Court accepted the consensus of the parties that the samples should be tested through CSIR-CFTRI, Mysore, a Referral and notified laboratory possessing the requisite expertise under the Food Safety and Standards Act. The Supreme Court



accordingly directed that the samples be forwarded to CFTRI for fresh scientific evaluation.

36. Thereafter, by order dated 13.01.2016, the Hon'ble Supreme Court directed CFTRI to specifically examine whether the lead content and glutamic acid levels were within the permissible parameters and to clarify whether the testing undertaken also covered Monosodium Glutamate (MSG). Recognizing the importance of a scientifically reliable determination, the Court further directed that if additional samples were required, fresh samples be collected from the godown of FSSAI itself in the presence of both parties.

37. Ultimately, while disposing of Civil Appeal No.14539 of 2015 on 03.01.2019, the Hon'ble Supreme Court observed that the CFTRI Report should constitute the basis of adjudication before the National Consumer Disputes Redressal Commission and accordingly set aside the interim directions previously issued by the NCDRC. Importantly, the Supreme Court consciously chose not to substitute its own findings on scientific issues but directed that the adjudicatory authority should evaluate the dispute on the basis of the report of the Referral Laboratory obtained under the directions of the Court itself.

38. The proceedings before the National Consumer Disputes Redressal Commission thereafter culminated in dismissal of the complaint instituted by the Union of India. The adjudicatory proceedings thus concluded after taking into consideration the reports generated by CFTRI pursuant to the orders of the Hon'ble Supreme Court.

39. These developments cannot be viewed in isolation. The complaints



before this Court arise out of the very same nationwide sampling exercise undertaken during May, 2015. The allegations, the alleged analytical deficiencies and the scientific issues are substantially identical. The prosecution does not rely upon any independent evidence of adulteration apart from the Food Analyst's reports generated during the original sampling exercise.

40. Once the original analytical reports became the subject matter of judicial scrutiny and fresh testing was directed through a Referral Food Laboratory recognized under the statute, the evidentiary value of the earlier reports necessarily stood diluted. The subsequent scientific evaluation undertaken under the supervision of the Hon'ble Supreme Court cannot be ignored while examining whether continuation of the present criminal proceedings would serve the ends of justice.

41. The State has contended that the criminal complaints are independent proceedings and must proceed to trial. This submission, though attractive at first blush, cannot be accepted in the peculiar facts of the present case. Criminal proceedings undoubtedly proceed independently. However, where the very scientific foundation upon which the prosecution rests has undergone subsequent examination through a process supervised by the constitutional courts, the High Court cannot remain oblivious to those developments while exercising jurisdiction under Section 482 Cr.P.C.

42. This view also finds support from subsequent judicial pronouncements. The Himachal Pradesh High Court in its judgement in ***Raghu Vakkiyal vs. State of Himachal Pradesh.***, 2026:HHC:2022, while considering criminal prosecutions arising out of the same *Maggi*



Noodles controversy, held that once the issue regarding lead content stood examined through the CFTRI reports obtained pursuant to the directions of the Hon'ble Supreme Court, continuation of prosecutions founded upon the earlier State laboratory reports would amount to abuse of the process of law. The Uttarakhand High Court in its judgement in ***Nestle India Limited vs. State of Uttarakhand and Another.***, 2026:UHC:4048, has also taken a similar view while quashing criminal proceedings arising from the same nationwide sampling exercise. This Court is in agreement with the aforesaid reasoning.

CONCLUSION:

43. Having regard to the subsequent orders passed by the Bombay High Court, the directions issued by the Hon'ble Supreme Court resulting in fresh analysis through CFTRI, the culmination of the proceedings before the NCDRC and the subsequent decisions rendered by the Himachal Pradesh and Uttarakhand High Courts, this Court is of the considered view that permitting the present prosecutions to continue would serve no useful purpose. The continuation of the complaints would merely compel the petitioners to undergo a protracted criminal trial despite the very foundation of the prosecution having substantially eroded.

44. The present case, therefore, falls within the well-recognized parameters governing the exercise of inherent jurisdiction under Section 482 Cr.P.C. The continuation of the impugned complaints would amount to abuse of the process of Court and would not advance the cause of justice.

45. Accordingly, the petitions are allowed. The complaints, the



2026:DHC:6343



impugned summoning orders dated 06.11.2015 and 11.01.2016, and all consequential proceedings arising therefrom are hereby quashed.

**MADHU JAIN
(JUDGE)**

AUGUST 6, 2026/P