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**SooperKanoon Citation : [sooperkanoon.com/435430](http://sooperkanoon.com/435430)**

**Court : Andhra Pradesh**

**Decided On : Apr-26-2007**

**Reported in : 2007CriLJ3138**

**Judge : G. Yethirajulu, J.**

**Acts : [Prevention of Food Adulteration Act, 1954](#) - Sections 2, 7 and 16(1);  
Prevention of Food Adulteration Rules, 1955 - Rule 44; Code of Criminal  
Procedure (CrPC) - Sections 482**

**Appeal No. : Cri. Petn. No. 1539 of 2007**

**Appellant : Vivek Sharma and anr.**

**Respondent : State of Andhra Pradesh and anr.**

**Advocate for Def. : Public Prosecutor**

**Advocate for Pet/Ap. : C.R. Sridharan, Adv.**

**Disposition : Petition allowed**

**Judgement :**

ORDER

**G. Yethirajulu, J.**

1. The petitioners are A. 2 and A. 3 in C.C. No. 32 of 2006 on the file of I Metropolitan Magistrate, Hyderabad, filed for the offences under Sections 2(ia)(m) and 7(i) punishable under Section 16(1)(a)(i) of the [Prevention of Food Adulteration Act, 1954](#) (for short 'the Act').

2. On 24-7-2004 at about 2 p.m. the Food Inspector, Flying Squad at Hyderabad visited the shop of the second petitioner at Somajiguda. The Food Inspector notices Corn-flour (Corn-meal) in a sealed polythene bag of 5 kgs. On enquiry, A. 1 disclosed that it was kept for using in making pizzas for human consumption. The Food Inspector purchased 600 grams of Corn-flour for making it three samples and one of the samples was sent to the Public Analyst, State Food Laboratory, Hyderabad, and the analyst after testing the sample gave an opinion that the sample does not conform to the standards of total ash and alcoholic acidity and it is, therefore, adulterated. After receipt of the Analyst report, a complaint was filed against the petitioners and other accused. Being aggrieved by the prosecution, the petitioners filed the present petition under Section 482 of Cr.P.C.

3. The learned Counsel for the petitioners contends that the product 'Corn-meal' was meant for preparation of pizzas being manufactured and packed by the same company and it is not for sale. He further contends that as the product 'Corn-meal' is not one of the items for which the standard has been prescribed under the Act, the Food Inspector is not entitled to say that Corn-meal is equivalent to Corn-flour, and therefore, it is adulterated. He further contends that the Corn-meal is not meant for sale and it is specially prepared for Domino's Pizza, which is their same product for human consumption and as no standard has been prescribed for Corn-meal in the Act, the prosecution is liable to be quashed. Further, the learned Counsel filed a copy of the label where the product is described as Corn-meal and it is further mentioned that it is not for sale and specially packed for preparation of pizzas by the second petitioner. In support of his contention that the prosecution can not be maintained against the petitioners, the learned Counsel for the petitioners relied on some judgments.

(1) In *M.V. Krishnan Nambissan v. State of Kerala* : 1966 CriLJ1347 , the Supreme Court while considering the food article 'butter milk' held that no standard for the contents of buttermilk either specifically or with reference to other items is prescribed. Therefore, a person selling buttermilk cannot be convicted for the offences under Section 16(1)(a)(i) and 7 of the Act r/w Rule 44 of the Prevention of Food Adulteration Rules, 1955.

(ii) In *Hindustan Lever Ltd. v. Food Inspector* (2004) 13 SCC 83, the Supreme Court held that the prosecution is not maintainable in respect of a product where no standard has been prescribed under the Rules and the standard of any other article is not relevant.

4. The food article was found by the Food Inspector in the pizza centre of the second petitioner where he does not sell Corn-flour to the customers and it will be used for preparation of pizzas.

5. The learned Additional Public Prosecutor submitted that since the food article is in the form of powder, it can be presumed as Corn-flour though it is mentioned on the packet as 'Corn-meal' and as standard has been prescribed for Corn-flour, the Food Inspector rightly filed a complaint against the petitioners and other accused to prosecute them under the relevant provisions of the Act.

6. But, the food item has been described as 'Corn-meal', therefore, it cannot be equated to Corn-flour and as it is meant for preparation of pizzas in their company, it cannot be said that either it is adulterated or misbranded though it does not conform to the standards of Corn-flour total ash and alcoholic acidity as prescribed under item A. 18.08 of Appendix-B to the Prevention of Food Adulteration Rules. Since no standard has been prescribed for Corn-meal and as the food article was not meant for sale and meant for preparation of pizzas of their company, the petitioners are entitled to the benefit of doubt.

7. Further, on perusal of the complaint, panchanama and the report of the Food Inspector, it is evident that the article seized i.e. 'Corn-meal' and not 'Corn-flour'.

8. The learned Counsel for the petitioners further contends that the two products are commercially and technically two different products used for two different purposes as defined by the major dictionaries as follows:

(a) Oxford Advanced Learner's Dictionary of Current English Seventh Edition.

(i) Corn-meal; flour made from MAIZE (CORN)

(ii) Corn-Flour; fine white flour made from MAIZE (CORN)

Corn-Starch; used especially for making sauces thicker.

(b) Webster's Encyclopedic Unabridged Dictionary of the English Language - New revised Edition:

(i) Corn-meal : 1. Meal made of corn or grain; Indian meal, 2. Scot, Oatmeal.

(ii) Corn-Flour : 1, Flour prepared from corn, 2. Chiefly Brit. Cornstarch.

Therefore, the two are distinct and separate from each other and one expression is not used as equivalent to the other or a synonym of each other.

9. In the light of the above circumstances, I am inclined to quash the impugned proceedings. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioners in C.C. No. 32 of 2006 on the file of I Metropolitan Magistrate, Hyderabad, for the offences under Sections 2(ia)(m) and 7(i) punishable under Section 16(1)(a)(i) of the Act, are quashed.

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