

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 30TH NOVEMBER 2006 / 9TH AGRAHAYANA 1928

Crl.MC.No. 1582 of 2006()

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CC.314/1998 of ADDL. CHIEF JUDICIAL MAGISTRATE COURT,  
TRIVANDRUM  
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PETITIONER: ACCUSED.  
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PEPSICO INDIA HOLDING PVT.LTD.,  
REGD.OFFICE, 13TH FLOOR MOHAN DEV 13, TOLSTOY MARG  
NEW DELHI, REPRESENTED BY ITS PLANT ACCOUNTS  
MANAGER N.MURALEEKRISHNA.

BY ADV. SRI.ANTONY DOMINIC  
SRI.A.M.SHAFFIQUE

RESPONDENTS: COMPLAINANT AND STATE.  
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1. AJAYAKUMAR.S. THE FOOR INSPECTOR,  
CORPORATION OF THIRUVANANTHAPURAM.
2. THE STATE OF KERALA, REPRESENTED BY THE  
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,  
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.PUZHAKKARA MUHAMMED.  
SRI.N.NANDAKUMARA MENON,SC,TVM CORPN.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD  
ON 30/11/2006, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:

**R. BASANT, J.**

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**CRL.M.C.NO. 1582 OF 2006**  
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**Dated this the 30<sup>th</sup> day of November, 2006**

**ORDER**

The petitioner is the 7<sup>th</sup> accused in a prosecution initiated under the provisions of the Prevention of Food Adulteration Act.

2. The crux of the allegations is that the soft drink manufactured by the petitioner was found to be adulterated. The Public Analyst found that the sample was adulterated. The sample was sent to the Central Food Laboratory. The Central Food Laboratory reported that the article is not adulterated. According to the petitioner, since the decision in **K.M. Mathew v. State of Kerala** (1992(1) SCC 1) stands overruled by the decision in **Adalat Prasad v. Rooplal Jindal** (2004 (7) SCC 338), the learned Magistrate is not jurisdictionally competent to drop the proceedings and that is why the petitioner has come before this Court to invoke the powers under Sec.482 of the Cr.P.C. It is the only course available to him in the light of **Adalat Prasad v. Rooplal Jindal** (2004 (7) SCC 338), submits counsel.

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3. The learned counsel for the respondent/Corporation of Thiruvananthapuram Shri Nandakumara Menon fairly submits that in the light of the report of the Central Food Laboratory, it is not open to the respondent now to canvass that the article is adulterated. The proceedings against the petitioner must, in these circumstances, come to an end. I am satisfied that this is a fit case where the jurisdiction under Sec.482 of the Cr.P.C. can and ought to be invoked as explained in **Adalat Prasad v. Rooplal Jindal** (2004 (7) SCC 338).

4. In the result:

(a) This Crl.M.C. is allowed.

(b) C.C.No.314/98 pending before the Additional Chief Judicial Magistrate's Court, Thiruvananthapuram in so far as it relates to the petitioner is concerned is hereby quashed.

**Sd/-**

**(R. BASANT, JUDGE)**

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P.S. to Judge