



2024:KER:81968

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

MONDAY, THE 4TH DAY OF NOVEMBER 2024 / 13TH KARTHIKA, 1946

CRL.MC NO. 6147 OF 2018

AGAINST THE ORDER DATED IN ST NO.430 OF 2017 OF
JUDICIAL MAGISTRATE OF FIRST CLASS -II, ERNAKULAM

PETITIONERS/ACCUSED NOS. 7 & 8:

- 1 HINDUSTAN COCA COLA BEVERAGES (P) LTD.,
PLOT NO.32, SY.NO.1-4,7 AND 9, BALAVEERANAHALLY,
BIDADI INDUSTRIAL AREA, BIDADI HOBLI, RAMNAGAR
TALUK AND DISTRICT, BANGALORE-562109, KARNATAKA,
REPRESENTED BY ITS AUTHORIZED SIGNATORY AND TEAM
LEADER-SALES HR MR.NEERAJ C.M.
- 2 ROHIT GOTHI
AGED 1 YEARS
903 B WING, ASTER TOWER, FILM CITY ROAD, GOREGAON
(E), MUMBAI - 400 097.

BY ADVS.
GRASHIOUS KURIAKOSE (SR.)
K.JAJU BABU (SR.)
RAJU K.MATHEWS

RESPONDENTS/COMPLIANANT:

- 1 THE CONTROLLER OF LEGAL METROLOGY,
VIKAS BHAVIN, THIRUVANANTHAPURAM-695001.
- 2 THE SENIOR INSPECTOR OF LEGAL METROLOGY
KAKKANADU, ERNAKULAM.



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**3 STATE OF KERALA
REPRESENTED BY ITS STATE PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.**

OTHER PRESENT:

SRI.RENJITH.T.R, SR.PP

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 04.11.2024, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**



P.V. KUNHIKRISHNAN, J.

CrL.M.C.No.6147 of 2018

Dated this the 04th day of November, 2024

ORDER

The petitioners are the accused Nos.7 and 8 in S.T No.430/2017 on the files of the Judicial First Class Magistrate Court-II, Ernakulam. It is a prosecution initiated against the petitioners and others, alleging offences punishable under Sections 11 (1)(b), 11 (1)(e) of the Legal Metrology Act, 2009 (for short, Act 2009) and also under Rule 10 of the Kerala Legal Metrology (Enforcement) Rules, 2012 (for short, Enforcement Rules), which are punishable under Section 29 of the Act 2009 and Rule 26 of the Enforcement Rules. It is also alleged that, there is violation of Rule 9(1)(a) of Legal Metrology (Packaged Commodities) Rule, 2011 (for short Rule 2011), Section 18(1) of Act 2009 which is punishable



under Rule 32(2) and Section 36(1) of the Act 2009.

2. The Senior Inspector, Legal Metrology, Ernakulam, inspected the trade premises of M/s Cinepolis, functioning in Building No.66/6284/B-11 of Cochin Corporation and detected the following offences:

" 1. The firm had sold commodity named "BS POPCORN'(solid in nature) in quantities referred to as "SMALL" and issued invoice to this effect vide CM No.2469951.

2. The firm had sold commodities named "CHOCALATE SHAKE" (semi solid in nature) in quantities referred to as "REG" and issued invoice to this effect vide CM. No:2470111.

3. The firm had sold commodities named "CAPUCCINO" (liquid in nature) in quantities referred to as "1" and issued invoice to this effect vide CM No:2470111.

4. The above said firm exhibited and kept for sale the packages of drinking water named "KINLEY WITH ADDED MINERALS COCA COLA, 10.6.16 RS.50/" which did not bear there on legible and prominent declarations regarding sale price and month & year of packing. This said declarations in respect of sale price and month & Year



of packing were not conspicuous."

3. Hence, it is alleged that the accused committed the offence.

4. According to the petitioners, even if the entire allegations are accepted, no offence is made out against the petitioners. Heard senior counsel Sri.Jaiju Babu an also the Public Prosecutor.

5. According to the prosecution, no person shall in relation to any goods, things or service issue or exhibit any price lists, invoice cash memo or other document or express in relation to any transaction or protection, any quantity or dimension otherwise than in accordance with the standard units of weight measures or numeration.

6. The allegation against the petitioners who are 7th and 8th accused are about the violation of Rule 9(1)(a) of Rule 2011. Rule 9(1)(a) of the Legal



Metrology (Packaged Commodities) Rules, 2011, only states that declaration should be legible and prominent. According to the petitioners, the rule undisputedly permits printing using the laser printing methods. According to the petitioners, there is no dispute that the optimum result that could be obtained by using the laser printing methods. It is further submitted by the petitioners, that the laser printing was legible and prominent. Rule 9(1)(a) of the Legal Metrology (Packaged Commodities) Rules, 2011, (for short Packaged Commodities Rules) is also extracted hereunder:

" 9. Manner in which declaration shall be made. - (1) Every declaration which is required to be made on a package under these rules shall be-

(a) legible and prominent; "

7. Rule 9 says about the manner in which the declaration shall be made. Rule 1(a) says that



every declaration which is required to be made on a package under this Rule shall be legible and prominent. The counsel for the petitioner made available a bottle of 'Kinley', packaged drinking water. The Public Prosecutor also produced the bottle seized by the officer concerned. This Court perused the same. A perusal of the same would show that there is laser printing in the bottle. It cannot be said that the same is not legible and prominent. The counsel for the petitioners produced a news item of the Central Minister, which published in Times Of India dated 24.09.2024 in which it is stated that the Minister bats for laser printing in water bottles. Since the printing is legible, I am of the considered opinion that the continuation of the prosecution against the petitioners is not necessary.

Therefore, this Crl.M.C is allowed. All



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further proceedings against the petitioners alone in S.T No.430/2017 on the files of Judicial First Class Magistrate Court-II, Ernakulam are quashed.

**Sd/ -
P.V.KUNHIKRISHNAN
JUDGE**

SSG



APPENDIX OF CRL.MC 6147/2018

PETITIONERS' ANNEXURES

- Annexure A1** **A TRUE COPY OF THE NOTICE NO. FILE 122/16 DATED 05.12.2016, OF THE 2ND RESPONDENT.**
- Annexure II** **A TRUE COPY OF THE LETTER DATED 28.12.2016.**
- Annexure III** **A TRUE COPY OF THE NOTICE NO.122/16 DATED 03.01.2017 SERVED ON THE PETITIONER.**
- Annexure IV** **A TRUE COPY OF THE NOTICE NO. 122/16 DATED 03.01.2017 SERVED ON MR. RAJESH NAIR, ASSOCIATE VICE PRESIDENT OF THE PETITIONER.**
- Annexure V** **A TRUE COPY OF THE LETTER DATED 13.01.2017.**
- Annexure VI** **A TRUE COPY OF THE JUDGMENT DATED 27.01.2017 IN WPC NO. 1961 OF 2017.**
- Annexure VII** **A TRUE COPY OF THE NOTES OF ARGUMENTS SUBMITTED TO THE 2ND RESPONDENT ON 08.02.2017.**
- Annexure VIII** **A TRUE COPY OF THE COMMUNICATION NO. 122/16 DATED 08.02.2017 OF THE 2ND RESPONDENT.**
- Annexure IX** **A TRUE COPY OF THE JUDGMENT DATED 06.03.2017 IN WPC 6199 OF 2017.**
- Annexure X** **A TRUE COPY OF THE ORDER DATED 22.04.2017 OF THE 2ND RESPONDENT.**
- Annexure XI** **A TRUE COPY OF THE COMPLAINT IN S. T. 430**



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**OF 2017 OF THE COURT OF THE JUDICIAL
FIRST CLASS MAGISTRATE - II, ERNAKULAM**

Annexure XII

**A TRUE COPY OF THE NEWS REPORT WHICH
APPEARED IN THE TIMES OF INDIA DAILY
DATED 27.03.2016.**