HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No.1945/2024

Ravi S/o Subhash Chand, Aged About 29 Years, Dungarpur, Sadar, Dholpur, Rajasthan, India.

----Petitioner

Versus

State Of Rajasthan, Through, Public Prosecutor

----Respondent

For Petitioner(s)	:	Mr. Mayank Gupta
For Respondent(s)	:	Mr. Amit Punia, PP

JUSTICE ANOOP KUMAR DHAND

Order

19/11/2025

1. A prayer has been made for quashing of the impugned FIR No.160/2022 registered with the Police Station Sadar Dholpur, District Dholpur for the offences under Sections 272, 273 & 420 IPC along with Sections 26(2)(i) and 59(i) of the Food Safety and Standards Act, 2006 (for short "the Act of 2006") and the entire proceedings arising out of the aforesaid FIR.

2. Learned counsel for the petitioner submits that the aforesaid FIR was registered by the Police Station Sadar Dholpur against the petitioner for the above stated offences with the allegation that when certain food articles were seized from the petitioner and samples of the same were taken for testing, the seized articles were found to be adulterated and incorrectly branded. Learned counsel submits that treating the aforesaid act of the petitioner as an offence punishable under various provisions of the IPC and the Act of 2006, not only an FIR was registered, but the charge-sheet

has also been submitted against the petitioner. Learned counsel submits that by virtue of Section 89 read with Section 59(i) of the Act of 2006, an FIR cannot be registered in such like matters on the grounds that these sections under the Act of 2006, being specific law, have an overriding effect over the general law. Learned counsel submits that the Hon'ble Apex Court in the case of **Ram Nath Vs. The State of Uttar Pradesh & Ors. (Criminal Appeal No.472/2012)** decided on 21.02.2024, as well as in the case of **Sushil Kumar Gupta Vs. State of West Bengal** reported in **2024(1) FAC 501** has taken a similar view, keeping in mind that in case an offence under Section 59(i) of the Act of 2006 has been made out, there cannot be a simultaneous prosecution of the accused under Sections 272, 273 & 420 IPC. Learned counsel submits that, under these circumstances, the entire proceedings arising out of the impugned FIR are liable to be quashed and set-aside.

3. *Per contra*, learned Public Prosecutor opposes the arguments raised by learned counsel for the petitioner and submits that the allegations levelled in the impugned FIR are relating to the offences punishable under the Indian Penal Code, so an FIR can be registered and the Police has power to investigate the matter and submit the charge-sheet before the court of law. Therefore, no illegality has been caused by the Investigating Agency while registering the aforesaid FIR and submitting the charge-sheet against the petitioner for the above stated offence. Hence, interference of this Court is not warranted.

4. Heard and considered the submissions made at the Bar and perused the material available on the record.

5. The issue involved in this petition is no more *res integra* as the same has been set at rest by the Hon'ble Apex Court in the case of **Ram Nath** (supra) and subsequently in the case of **Sushil Kumar Gupta** (supra).

6. In the case of **Sushil Kumar Gupta** (supra), two questions were formulated by the Hon'ble Apex Court for its consideration-:

> "(I) Whether the police constituted under the Police Act, not being a Food Safety Officer under the said Act, namely, the Food Safety and Standard Act, 2006 is empowered to investigate into the case; and
> (II) Whether a First Information Report can be registered under Sections 272 and 273 of the IPC respectively without an order of Magistrate under Section 155(2) CrPC regard being had to the fact that the offence under Sections 272 and 273 of the IPC respectively are non-cognizable in nature."

7. The aforesaid questions were answered by the Hon'ble Apex Court by recording the following observations in Paras 6 to 13, which reads as under:-

> "6. The second question also came to be answered in the affirmative. The High Court took the view that since Section 420 of the I.P.C. has also been invoked and the same being a cognizable offence, the police can investigate the FIR, even if some of the offences are non-cognizable offences.
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> 7. The High Court ultimately rejected the revision application and thereby declined to quash the FIR.
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> 8. Having heard learned counsel appearing for the parties and having gone through the materials on record, the only question that falls for our consideration is whether

the High Court committed any error in passing the impugned order.

9. The issues raised in the present appeal are no longer res integra after the decision of this Court in the case of "Ram Nath vs. The State of Uttar Pradesh & Ors.", Criminal Appeal No. 472 of 2012 dated 21.2.2024. This Court took the view that very exhaustive, substantive and procedural provisions in the 2006 Act have been provided for dealing with the offences concerning unsafe food. The Court looked into Section 89 of the Act, 2006 which provides for an overriding effect of the Act, 2006 over all other food related laws. The Court also looked into Section 59 of the Act, 2006.

10. The final conclusion drawn in Ram Nath (supra) is as under:-

> "20. Thus, there are very exhaustive substantive and procedural provisions in the FSSA for dealing with offences concerning unsafe food. In this context, we must consider the effect of Section 89 of the FSSA. Section 89 reads thus: "89.Overriding effect of this Act over all other food related laws.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect of virtue of any law other than this Act."
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> The title of the section indeed indicates that the intention is to give an overriding effect to the FSSA over all 'food related laws'. However, in the main Section, there is no such restriction confined to 'foodrelated laws', and it is provided that provisions of the FSSA shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. So, the Section indicates that an overriding effect is given to the provisions of the FSSA over any other law. The settled law is that if the main Section is unambiguous, the aid of the title of the Section or its marginal note cannot be taken to interpret the same. Only if it is ambiguous, the title of the section or the marginal note can be looked into to understand the intention of the legislature. Therefore, the main Section clearly gives overriding effect to the provisions of the FSSA over any other law in so far as

the law applies to the aspects of food in the field covered by the FSSA. In this case, we are concerned only with Sections 272 and 273 of the IPC. When the offences under Section 272 and 273 of the IPC are made out, even the offence under Section 59 of the FSSA will be attracted. In fact, the offence under Section 59 of the FSSA is more stringent.

21. The decision of this Court in the case of Swami Achyutanan Tirth v. Union of India & Ors. (2014) 13 SCC 314 does not deal with this contingency at all. In the case of the State of Maharashtra & Anr. v. Sayyed Hassan Sayyed Subham & Ors. (2003), 7 SCC 389 the question of the effect of Section 97 of the FSSA did not arise for consideration of this Court. The Court dealt with simultaneous prosecutions and concluded that there could be simultaneous prosecutions, but conviction and sentence can be only in one. This proposition is based on what is incorporated in section 26 of the GC Act. We have no manner of doubt that by virtue of Section 89 of the FSSA, Section 59 will override the provisions of Sections 272 and 273 of the IPC. Therefore, there will not be any question of simultaneous prosecution under both the statutes”

11. Thus, the dictum as laid in Ram Nath (supra) is that if an accused is charged for the offences under Sections 272 and 273 respectively of the I.P.C., Section 59 of the Act, 2006 would also be attracted. In fact, the offence under Section 59 of the Act, 2006 is more stringent compared to Sections 272 and 273 of the I.P.C. respectively. The final conclusion drawn by this Court in Ram Nath (supra) is that by virtue of Section 89 of the Act, 2006, Section 59 will override the provisions of Sections 272 and 273 respectively of the I.P.C.. This Court ultimately held that there cannot be simultaneous prosecution under both the statutes.

12. The sum and substance of the ratio in Ram Nath (supra) appears to be that after the enactment of the Act, 2006, more particularly, keeping in mind the offence under Section 59 of the Act, 2006, there cannot be prosecution for the offences under Sections 272 and 273 respectively of the I.P.C.

13. In the result, this appeal succeeds and is hereby allowed. The impugned judgment and order passed by the High Court is set aside. The proceedings of criminal case no. 2795/2017 arising from the FIR No. 58/2017 are hereby quashed. However, we clarify that it shall be open for the State to initiate appropriate proceedings in accordance with the provisions of the Act, 2006."

8. Since the issue involved in this petition has already been set at rest not only once, but twice, by the Hon'ble Apex Court in the case of **Ram Nath** (supra) and subsequently in the case of **Sushil Kumar Gupta** (supra), this Court finds no valid reason to take a different view, as the Hon'ble Apex Court has held that the Police does not have the power to investigate the matter for the offences in relation to food adulteration punishable under the Act of 2006, by virtue of Section 89 read with Section 59(i) of the Act of 2006 which has an overriding effect over the provisions contained under Sections 272 & 273 IPC.

9. Looking to the fact that the impugned FIR does not disclose that the food items were sold by the accused persons to anyone with dishonest intention. Thus, there are no allegations with regard to inducing on the part of the petitioner, nor the allegations of causing undue loss and undue gain could be established on the basis of the contents of the impugned FIR. Therefore, where the contents of FIR do not satisfy the definition of cheating as defined under Section 415 IPC, no offences under Section 420 IPC can be said to be made out under the circumstances.

10. Accordingly, the instant criminal misc. petition stands allowed. All proceedings arising out of the impugned FIR No.160/2022 registered with the Police Station Sadar Dholpur,

District Dholpur for the offences under Sections 272, 273, 420 IPC and Section 26(2)(i) and 59(i) of the Act of 2006 stand quashed and set-aside.

11. However, the Food Safety Officer and the authority concerned would be at liberty to initiate proper proceedings against the petitioner in accordance with law, if not already initiated. Thereafter, the authority concerned is free to act in accordance with the Act of 2006 for the offences punishable therein.

11. Stay application as well as all applications (pending, if any) stand disposed of.

12. Let a copy of this order be sent to the concerned Food Safety Officer for compliance of this order.

(ANOOP KUMAR DHAND),J

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