

ORDER SHEET

THE HIGH COURT OF SINDH AT KARACHI

C.P. No.D-2488 of 2020

Date Order with Signature(s) of Judge(s)

Present

Mr. Justice Muhammad Ali Mazhar.

Mr. Justice Amjad Ali Sahito.

Abdul Majeed Dashti Petitioner

Versus

Province of Sindh
Through its Chief Secretary
Karachi and others Respondents

18.02.2021

Mr. Haad Paganwala, Advocate for the Petitioner
Mr. M.S. Bukhari, Advocate for Sindh Food Authority
Mr. Sheharyar Mehar, Assistant Advocate General
Mr. Abdul Sattar and Ms. Manzooran Gopang, Law
Officers, Law Department
SIP Muhammad Ishaq of PS SITE Super Highway
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Muhammad Ali Mazhar, J. The petitioner has entreated a declaration that sale, trade, storage and business of betel nuts or areca nuts is lawful and cannot be treated gutka or manpuri. It has also been prayed to restrain official respondents not to take any coercive action or causing interference in his business of betel nuts. Counsel for the petitioner pointed out page-19 which is a copy of FIR No.234/2020 lodged at PS SITE Super Highway, Karachi East under sections 269, 270 and 337J PPC in which some stock of betel nuts was seized on the ground that it is injurious to public health. On 10.09.2020, the I.O. of the case was directed to submit the report of chemical examiner. On 13.10.2020 report of Director Laboratories & Chemical Examiner to the Government of Sindh was submitted to show

that the parcel of betel nuts approximately 02 Kg was sent to the laboratory and according to result of examination, the lab reported that “The above said parcel contains injurious materials, therefore unfit for human consumption.” Learned A.A.G. as well as Legal Advisor of Sindh Food Authority pointed out page 27 of the file which is a copy of “The Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Manpuri Act, 2019”. They have also pointed out clause-8 of section (2), germane to the definition of gutka and manpuri, which is reproduced as under:

“(viii) “gutka” and “manpuri” means –

- (a) Any mixture which contains any of the forms of chalia (Betel nut), catechu, tobacco, lime and other materials as its ingredients which is injurious to health and not fit for human consumption within the meaning of section 5 of the Sindh Pure Food Ordinance, 1960 and is also in contravention to the provisions of rule 11 of the Sindh Pure Food Rules, 1965;
- (b) Any substance prepared for human consumption and is posing a serious threat to the health of people and includes such substances as Government may, by notification in the official Gazettee, declare to be such substances;”

2. Learned A.A.G. argued that the consumption of betel nuts is not prohibited under the above law. He further argued that the betel nut used as a mixture in gutka and manpuri is prohibited. This argument has also been supported by Legal Advisor of the Sindh Food Authority.

3. In nutshell, learned A.A.G. as well as Legal Advisor both of the firm view that betel nuts are not prohibited under the laws unless it is used in gutka and manpuri or items injurious for human consumption or life. So far as the FIR lodged against the petitioner is concerned, learned counsel for

the petitioner submits that the petitioner is already on bail and proper remedy will be availed in accordance with law before the trial court. At present the case is being tried by the competent court as well as I.O. has submitted the chemical examiner report of the betel nuts allegedly seized by the police officials, therefore the fate of the criminal case would be decided by the trial court in accordance with law. The petition is disposed of alongwith pending application.

JUDGE

JUDGE

Kamran/PA