

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.04.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP.No.11133 of 2015

and

M.P.Nos.1 and 2 of 2015

1.Prahladkumar Soni
2.Bharath Kumar Soni

...Petitioners/A3 & A4

Vs

State rep.by
The Drugs Inspector,
Kancheepuram I Range,
Kancheepuram Zone,
Chennai-600 006.

...Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in PRC No.3 of 2014 on the file of the learned Chief Judicial Magistrate, Chengalpattu and quash the same.

For Petitioner : Mr.V.T.Narendiran

For Respondent : Mr.C.Emalias
Additional Public Prosecutor

ORDER

This petition has been filed to call for the records in PRC No.3 of 2014 on the file of the learned Chief Judicial Magistrate, Chengalpattu and quash the same.

2.Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondent and perused the material placed on record.

3. It is seen that the 1st accused Company is the manufacturer of medical bandage and they have sent spurious bandage rolls to the other accused, in connection with which, the Drugs Inspector has conducted an enquiry and has filed the present complaint.

4. In this quash application, the learned counsel for the petitioners submitted that the complaint does not disclose the involvement of the petitioners/accused Nos.3 and 4, in the day-to-day affairs of the 1st accused Company. He also brought to my notice the provisions of Section 34 of the Drugs and Cosmetics Act, 1940, which is pari materia to similar provisions under the Negotiable Instruments Act.

5. The Judgments relating to mulcting criminal liability on persons based on vicarious liability are in legion and requires no reiteration. But, in this case, the Drugs Inspector has gone for inspection and the accused have not co-operated with the Drugs Inspector, by furnishing the names of the persons, who were responsible for the day-to-day activities. In page 5 of the complaint, it is stated as follows:

"The above said firm has not produced the following documents.

1. Inprocess control record.
2. Delivery Challan
3. Control sample record
4. Payment details
5. Particulars of the person responsible for day to day activities
6. Particulars of the person responsible for dispatch.
7. Name and address of parcel service."

6. Now, in the case of this nature, where public health is involved, the Court should be more circumspect before quashing the complaint that will cause more damage to the public weal. On one hand, the firm has not given any particulars to the Drugs Inspector as to the persons, who were responsible for the activities and on the other hand, it is now being complained that the partners have been arrayed as an accused, without anything more. I am unable to persuade myself with this arguments, especially in the case of this nature. Hence, this petition is dismissed as it is devoid of merits. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Deputy Registrar(J)

//True Copy//

Sub Assistant Registrar

mps

To

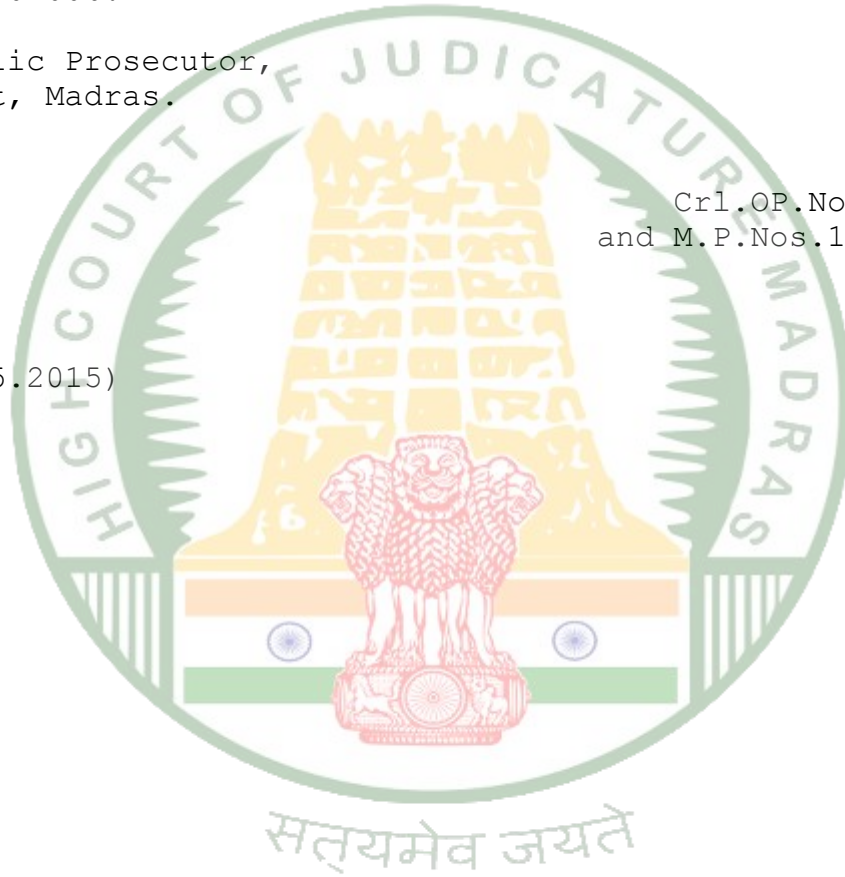
1.The Chief Judicial Magistrate,
Chengalpattu.

2.The Drugs Inspector,
Kancheepuram I Range,
Kancheepuram Zone,
Chennai-600 006.

3.The Public Prosecutor,
High Court, Madras.

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PUR (CO)
PSI (21.05.2015)



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