

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No. 2097 of 2011

ORDER:

-

This Criminal Petition is preferred by the petitioners-A.2 to A.4 under Section 482 Cr.P.C to quash the proceedings in C.C.No.573 of 2010 on the file of Judicial Magistrate of First Class, Mahabubnagar.

The brief facts of the case are as follows:

The petitioners herein are Directors of M/s. Galpha Laboratories Limited (A.1). A complaint was filed before the Judicial Magistrate of First Class, Mahabubnagar, against the A.1, the petitioners herein and two others, on 22.06.2010, alleging that A.1 to A.5 have violated Section 18(a)(i) read with Section 16 of II Schedule of Drugs and Cosmetics Act, 1940 (for short 'the Act') by manufacturing drugs for sale Not of Standard Quality and that A.6 has contravened Section 18(a)(i) r/w Section 16 of II Schedule of the Act by selling Not of Standard Quality Drugs. The learned Magistrate has taken on file the complaint against A.1 to A.6 under Section 18(a)(i) r/w Section 16 of the Act punishable under Section 27 (d) of the Act and ordered issuance of summons to A.1 to A.6.

The main contention raised by the learned counsel for the petitioners is that in a case of this nature, it is always necessary for the complainant to establish the factor that the petitioners are responsible for the day to day affairs of the company concerned. Apart from that, as per the provisions of the Act, if any one of the persons, who were holding the post of Directors or any other posts, informs the concerned authorities that he is in-charge of the day to day affairs of the company, he can give an undertaking for facing prosecution in the absence of the other Directors.

A reading of the complaint discloses that the complainant stated before the concerned Court that the petitioners are the Managing Directors of the company and that it is specifically stated that A.5, General Manager, Quality Assurance, is responsible for the activities of the A.1-firm. If it is the case of the complainant that A.5 is the person, who is responsible for the day to day activities of the firm concerned, necessarily the complaint should have been filed against A.5 only.

Considering the facts and circumstances of the case, and in view of the admission made by the complainant that A.5 is the responsible person for the activities of A.1-company, the proceedings in C.C.No.573 of 2010 on the file of the Judicial Magistrate of First Class, Mahabubnagar, in respect of the petitioners – A.2 to A.4 alone are quashed. The trial Court is at liberty to proceed to against the other accused.

Subject to the above, the Criminal Petition is disposed of.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 04.11.2015

va

THE HONOURABLE SRI JUSTICE RAJA ELANGO

-

-

-

-

-

-
-
-
-
-
-
-

CRIMINAL PETITION No. 2097 of 2011

-
-
-
-
-
-
-
-
-
-

04.116.2015

va

-