

THE HON'BLE SMT JUSTICE ANIS
CRIMINAL PETITION No.8985 of 2012

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ORDER:

Heard learned counsel appearing for the petitioners/A1 to A4 and the learned Additional Public Prosecutor representing the State (Telangana).

This criminal petition is filed under Section 482 of the Code of Criminal Procedure to quash the proceedings in C.C.No.345 of 2010 on the file of Judicial First Class Magistrate, Ramannapet.

The case of the prosecution is that 02.01.2009, 1st respondent – Drugs Inspector, Nalgonda, inspected A1 firm M/s Sreepathi Labs Pvt. Ltd, Survey No.28, N.H.No.9, Gundrampally Village, Chityal Mandal, Nalgonda District and found that the petitioners/A1 to A4 manufacturing the Drugs viz. Ciprofloxacin HCL Batch No.0040708, 0090908, Sildenafil Citrate Batch No.SFC FPO2008 without a valid drugs manufacturing license and thereby the petitioners have violated the provisions of Section 18(c) of the Drugs and Cosmetics Act, 1940 (for short 'the Act').

The case of the petitioners is that they have not manufactured the drugs, but purchased the same under the different invoices and produced before the 1st respondent. Invoice Nos.23, 47 and 39 issued by M/s Warner Laboratories Pvt. Ltd. disclose the details of drugs with batch numbers purchased by the petitioners. Further the report of the Government analyst discloses that the drugs are in standard quality and that they are neither adulterated nor spurious and that they have not violated the provisions of Section 18(c) of the Act.

Learned counsel for the petitioners submitted that the

petitioners have purchased Ciprofloxacin HCL Batch No.0040708, 0090908, Sildenafil Citrate Batch No.SFC FPO2008 from M/s Warner Laboratories Pvt. Ltd under different invoices dated 31.07.2008, 05.11.2008 and 29.09.2008 and that they never manufactured the above said drugs. Therefore, the question of petitioners producing drug manufacturing license does not arise not that they have violated Section 18(c) of the Act. It is also submitted that the report of the Government Analyst clearly establish that the drugs, which were seized, are having standard quality and that they are neither adulterated nor spurious. Therefore, it is a fit case to quash the proceedings in C.C.No.345 of 2010.

On the other hand, the learned Assistant Public Prosecutor submitted that the petitioners have not produced any license that the petitioners are either manufacturers or dealers and that the c.c. is at the stage of trial. It is also submitted that the facts stated by the counsel for petitioners are mixed question of facts and law, and the same will be decided after conducting the full fledged trial only. Therefore, the criminal petition is liable to be dismissed.

A perusal of record shows that on 02.01.2009 Drugs Inspector, Nalgonda-1st respondent along with other Drugs Inspectors inspected the 1st petitioner firm situated in Survey No.28, N.H.No.9, Gundrampally Village, Chityal Mandal, Nalgonda District under the supervision of one V.V.V.Varaprasad, Assistant Director, and on verification, certain bulk drugs were found i.e. i) 50kgs of Ciprofloxacin Hydrochloride B.No.0040708 mfg date August, 2008, expiry date July, 2013, ii) 4 x 50 kgs of Ciprofloxacin Hydrochloride B.No.0090908, mfg date September, 2008, expiry date August, 2013, iii) 12 x 25 kgs of Sildenafil citrate B.No.SFC FP 02008, mfg. date October, 2008, expiry date, expiry date September, 2011 packed in HD PE Drums which are injurious to health. On 06.01.2010 in the presence of panch

witnesses, samples were drawn and sent for analyst report. As per the report of analyst dated 06.06.2009 received in Form-13, the samples are 'of standard quality'. A perusal of the invoices clearly establishes that the petitioners purchased the drugs, which were seized by the 1st respondent, from M/s Warner Laboratories Pvt. Ltd. Further the manufacturers also admitted that those invoices belongs to their firm. Under these circumstances, proceeding with the trial would only be an abuse of process of law and would ultimately result in miscarriage of justice. Therefore, the entire proceedings can be quashed.

Consequently, the entire proceedings in C.C.No.345 of 2010 on the file of Judicial First Class Magistrate, Ramannapet against the petitioners/A1 to A4 are hereby quashed and the criminal petition is allowed. The miscellaneous petitions, if any, filed in this petition shall stand closed.

ANIS,J

Date: 30.01.2015
Kvrm

THE HON'BLE SMT JUSTICE ANIS

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