

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.2924 OF 2013

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ORDER:

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This Criminal Petition is filed under Section 482 of Code of Criminal Procedure (Cr.P.C) by the petitioners/accused seeking to quash the proceedings in C.C.No.544 of 2010 on the file of the II Metropolitan Magistrate, Vijayawada, Krishna District, registered for the offence punishable under Section 27(D) of the Drugs and Cosmetics Act, 1940 for committing offences under sections 13(1)(i), 13(c), 13(b) and 22(1)(cca) of the Drugs and Cosmetics Act.

The case of the prosecution is as follows. On 01.10.2003, the Drug Inspector visited the office of ICDS Project, Kankipadu and L.W.2, ACDPO was present at the store, that the Drug Inspector found ferrous sulphate and folic acid tablets of batch No.TP 788, manufacturing date 2003 expiry date May, 2004 manufactured by A.1. On enquiry, L.W.2 informed that A.1 has supplied the tablets. Then the Drug Inspector took samples of the same and made four portions. On 01.10.2003, the Drug Inspector sent one sample to Government Analyst, Drug Control Laboratory. On 13.11.2003, the Drug Inspector received a report stating that the sample is not of standard quality. Then the Drug inspector wrote a letter to L.W.2 to disclose the name and address of the manufacture. On 10.12.2003, the Drug Inspector received a letter from the Project Director, DW and CD Agency, Krishna that they have purchased and received the drug from A.1 company. On 16.12.2003, the Drug Inspector addressed letter to A.1 as there was no reply till 27.02.2004, the Drug Inspector proceeded to Hyderabad and enquired with L.W.3. Later, A.2, Managing Director of A.1, furnished the drug licence and other details. On 05.03.2004, the Drug Inspector received a reply from A.1 represented by A.2. Therefore, on 29.06.2004, a complaint was filed before the learned

VI Additional Metropolitan Magistrate, Vijayawada and subsequently, transferred the case to the Court of II Metropolitan Magistrate,

Vijayawada and the same is numbered as C.C.No.544 of 2010.

Heard the learned counsel for the petitioners and the learned Public Prosecutor and perused the material available on record.

Learned counsel for the petitioners submits that the sample was taken on 01.10.2003 and the complaint was filed on 29.06.2004, that even according to the complaint, the date of expiry of the drug is May, 2004 and as such, the complaint was filed after expiry of the drug, as a result of which, the petitioner has deprived of his valuable right of sending the second sample to the Laboratory. He further submits that the sample was lifted on 01.10.2003, the analyst report is dated 13.11.2003, whereas the complaint was filed on 29.06.2004 and cognizance was taken on 25.04.2007, i.e., after lapse of 3½ years, which is illegal. As per Section 468 CrPC, the limitation is three years, if the offence is punishable with imprisonment for a term exceeding one year, but not exceeding three years. Hence, he prays this Court to quash the proceedings against the petitioners herein.

This Court is of the view that as rightly argued by the learned counsel for the petitioner, the complaint was filed after expiry of the drug, i.e., May, 2004, depriving the valuable right of the petitioner to send the second sample to the Laboratory to prove his innocence. Further, the sample was taken on 01.10.2003 and received the analyst report on 13.11.2003, and the complaint filed on 29.06.2004 and the cognizance was taken on 25.04.2007. It clearly shows that the complaint is barred by limitation. Hence, the proceedings against the petitioners is liable to be quashed.

In the result, the proceedings in C.C.No.544 of 2010 on the file of the II Metropolitan Magistrate, Vijayawada, Krishna District, is hereby quashed and the petitioners are acquitted of the offences charged.

The Criminal Petition is accordingly allowed. Consequently, miscellaneous petitions, if any, pending, shall stand closed.

31.08.2015

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