

CRR-3190-2014 and others connected revisions

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of Decision: 05.05.2015

1. CRR-3190-2014 (O & M)

Akashdeep Singla

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

2. CRR-3198-2014 (O & M)

Arun Kumar

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

3. CRR-3199-2014 (O & M)

Pankaj Garg

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

4. CRR-3368-2014 (O & M)

Satpal

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

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5. CRR-3369-2014 (O & M)

Satpal

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

AND

6. CRR-3371-2014 (O & M)

Satpal

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. Ishan Gupta, Advocate,
for the petitioners in all the petitions.

Mr. S.S.Chandumajra, DAG, Punjab.

Paramjeet Singh, J. (Oral)

This order shall dispose of CRR-3190-2014 titled 'Akashdeep Singla vs. State of Punjab', CRR-3198-2014 titled 'Arun Kumar vs. State of Punjab', CRR-3199-2014, titled 'Pankaj Garg vs. State of Punjab', CRR-3369-2014, titled 'Satpal vs. State of Punjab', CRR-3368-2014 'Satpal vs. State of Punjab' and CRR-3371-2014, titled 'Satpal vs. State of Punjab' as common questions of fact and law are

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involved in all these petitions.

All these criminal revisions have been filed challenging the separate orders passed by learned Special Judge, Sangrur whereby separate applications filed by the petitioners seeking dismissal of the complaint or return of the complaint to the Chief Judicial Magistrate, filed by the State through Drugs Inspector, Sangrur, under Section 18(c) read with Rules 62 and 18-A punishable under Section 27(b) (ii) and 28 of Drugs and Cosmetics Act, 1940 (in short, '1940 Act') and Rules made thereunder, have been dismissed and the petitioners have been charge-sheeted under Section 18-A of the 1940 Act punishable under Section 28 of the 1940 Act and Section 18(c) of the 1940 Act punishable under Section 27(b) (ii) of the 1940 Act.

Before proceeding further, a brief reference to the facts is necessary which are being extracted from CRR-3190-2014.

Brief facts of the case, as alleged in the complaint, are that respondent-State filed a complaint through Drugs Inspector, Sangrur, alleging that complainant is notified as an Inspector under Section 21 of the 1940 Act, vide Punjab Government Gazette Notification No.2/147/11-3 C 6/5335 dated 21.10.2011. The complainant is also notified as Assistant Public Prosecutor vide Punjab Government Gazette Notification No.2/147/11-3 C 6/5352 dated 21.10.2011. On 11.09.2009, a joint team comprising of Sh. Vinay Kumar Jindal, the then Drugs Inspector, Bathinda, Dinesh Gupta, the then Drugs Inspector, Gurdaspur,

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Sh. Rajesh Suri, the then Drugs Inspector, Ludhiana reached at Sangrur and met Sh. Bhagwant Singh, S.H.O. Ahmedgarh at the Ist Floor of M/s. Sai Medical Store, Dhuri Gate, Sangrur. Bhagwant Singh, SHO, Ahmedgarh handed over the premises to inspection team for inspection. Accused-Akashdeep Singla was present as incharge of the said premises. Jagmohal Uppal son of Sh. Somdev Uppal and Sh. Munish Singla son of Sh. Sita Ram Singla were joined in the proceedings as independent public witnesses. During inspection, Akashdeep Singla stated that he is having drugs licences in the name of M/s. Sai Medical Store, Dhuri Gate, Sangrur and he is the proprietor of the firm. It was found that accused, who was competent person of the Firm M/s Sai Medical Hall, Dhuri Gate, Sangrur, was allegedly having retail sale drugs licences No.22020-NB and 22020-B valid upto 01.05.2011. The accused was found in possession of huge quantity of allopathic drugs for sale and distribution at first floor at the above noted premises. He allegedly stocked the allopathic drugs at a difference place from his licensed place deliberately to escape from checking and with *malafide* intention. He also did not disclose the name, address and other particulars of the person or firm from whom he acquired the allopathic drugs found stocked in the said premises. The entire quantity of fourteen types of allopathic drugs was seized on Form No.16 which was prepared by Sh. Vinay Kumar Jindal and the same was attested by Sh. Rajesh Suri, Sh. Dinesh Gupta, Sh. Bhagwan Singh, Sh. Jagmohan Uppal as well as Sh. Munish Singla and

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accused-Akashdeep Singla also signed the same. The seized drugs were placed in eight cardboard boxes and sealed with seal impression of Sh. Vinay Kumar Jindal bearing impressions 'VKJ'. The seized drugs were taken into possession. Sh. Kamal Kamboj, the then Drugs Inspector, Sangrur also sent a notice by registered post to accused to explain his position regarding the inspection dated 11.09.2009. Therefore, the complaint was filed.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioners contended that the impugned orders are result of non-application of mind. There is complete violation of provisions of Sections 36-AB of the 1940 Act. The said provision makes it clear that offences relating to adulterated and spurious drugs will only be tried by the Special Court and not all such offences. The petitioners are undoubtedly licensed chemist and are having drugs licences issued under the provisions of the 1940 Act, therefore, stocking of drugs at a place different from the designated place mentioned in the drug licences, would certainly be considered to be the violation of conditions of licence or at the most Rule 62 of the Drugs and Cosmetics Rules, 1945, which is punishable under Section 27(d) of the 1940 Act, not under Section 27(b) (ii) of the 1940 Act.

Per contra, learned State counsel has vehemently opposed the contentions of learned counsel for the petitioners and supported the

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impugned orders.

I have considered the rival contentions of learned counsel for the parties.

A bare reading of complaints reveals that the petitioners have allegedly retained allopathic medicines of various types at places other than the places specified in their respective licences. At the stage of framing the charge, learned Special Judge has passed elaborate order discussing all the provisions which was even not required at that stage. At the stage of framing the charge, the Court has to *prima facie* consider whether there are sufficient grounds for proceeding against the accused. The Court is not required to appreciate the evidence to arrive at a conclusion as to whether material produced will be sufficient or not for convicting the accused. There are specific allegations against the petitioners that they were found in possession of allopathic drugs at places other than those mentioned in their respective licences. It is not the case of the petitioners that no case is made out against them. The trial Court framed the charges after considering the material on record. The purpose of charge is to inform the accused as precisely and concisely as possible of the matter with which he is charged. The primary object of framing charge is to give notice of the essential facts which prosecution proposes to establish. Moreover, it is settled law that charges framed can be altered/amended/added at any stage before the pronouncement of judgment.

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In view of above, I do not find any illegality or perversity in the impugned orders.

Dismissed.

However, the petitioners will be at liberty to raise all the objection with regard to charge before pronouncement of judgment.

05.05.2015

parveen kumar

(Paramjeet Singh)
Judge