

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

CrI.O.P. No.14985 of 2016
and
CrI.M.P. No.7439 of 2016

M/s.Cipla Ltd.

S-103 to S-105, S-107 to S-112 & L-147 to 4-147-1

Verna Industrial Estate, Verna

Salcette, Goa 403 722

represented by Dr. Y.K. Hamied

The Chairman and Managing Director

represented by its Power of Attorney Holder

Paras Doshi

S/o Niranjana Doshi, aged 38 years

having office at First Floor, Tower - A

Peninsula Business Park

Ganpatrao Kadam Marg

Lower Parel

Mumbai 400 013

.... Petitioner/1st Accused

Vs.

State represented by

T.S. Thamilselvi, B. Pharm.

Senior Drugs Inspector and Mylapore I/c

George Town - I Range

O/o the Assistant Director of Drugs Control

Zone - III, DMS Campus

No.359, Anna Salai

Chennai 600 006

.... Respondent/Complainant

Criminal Original Petition filed under Section 482, Cr.P.C. seeking to call for the records pertaining to the order dated 24.06.2016 in C.C. No.9161 of 2010 pending on the file of the IV Metropolitan Magistrate Court, Saidapet, Chennai and quash the same.

For Petitioner : Mr. J. Sivanandaraaj

For Respondent : Mr. C.Emalias
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed seeking to call for the records pertaining to the order dated 24.06.2016 in C.C. No.9161 of 2010 pending on the file of the IV Metropolitan Magistrate Court, Saidapet, Chennai and quash the same.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

3. It is seen that the petitioner herein, along with 11 others, is facing prosecution in C.C. No.9161 of 2010 before the IV Metropolitan Magistrate Court, Saidapet, Chennai, on the complaint lodged by the Senior Drugs Inspector & Mylapore (I/c) for various offences under the Drugs and Cosmetics Act, 1940. It is also seen that the presence of accused A.1 to A.5 before the Trial Court was dispensed with, since they had filed an application under Section 205 Cr.P.C. Since the prosecution is based on a complaint, the prosecution examined witnesses and the prosecution side was closed on 17.06.2016 and the case was posted to 24.06.2016 for framing of charges. On that day, only A.9, A.11 and A.12 were present and the rest of the accused were absent, on account of which, the Trial Court has issued non-bailable warrant to A.1 to A.8 and A.10 and posted the case to 01.07.2016. Now, the case stands adjourned to 22.07.2016. Challenging the order dated 24.06.2016 and the warrants issued by the Trial Court, the first accused is before this Court.

4. Mr. Sivanandaraj, learned counsel for the petitioner would submit that when an accused is on special vakalat, under Section 205 Cr.P.C., before issuance of warrant as against him, it is incumbent on the Court to issue a notice directing him to appear, which, in this case, has not been done.

5. Be that as it may, this case is of the year 2010 and the complainant's side evidence has been closed on 17.06.2016 and thereafter, the matter has been posted for framing charges on 24.06.2016, on which date, as stated above, most of the accused were not present and neither their advocate was present.

6. Mr. Sivanandaraj, learned counsel for the petitioner, submitted that on account of Court boycott, the advocate did not appear before the Trial Court.

7. In Harish Uppal [Ex.Capt.] Vs Union of India reported in [2003] 2 SCC 45, the Supreme Court has held that boycott of Courts is illegal and therefore, that cannot be a reason to condone the absence of the advocate.

8. However, taking into consideration the fact that A.1 to A.5 were on special vakalat, to meet the ends of justice, the following order is passed:

- The non-bailable warrant issued against the accused on 24.06.2016 in C.C. No.9161 of 2010 is hereby recalled on condition that the accused shall appear before the IV Metropolitan Magistrate, Saidapet, Chennai on 08.08.2016 and on their appearance, the Magistrate shall release them on bail under Section 436 Cr.P.C. on condition that they execute a bond for Rs.5,000/- with one surety each to the satisfaction of the Magistrate and also submit themselves for questioning by the Magistrate for the purpose of framing charges.

9. With the above direction, this Criminal Original Petition stands disposed of.

Call on 11.08.2016 at 2.15 p.m. for reporting compliance.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cad

To

- 1.The IV Metropolitan Magistrate,
Saidapet, Chennai.
- 2.The Senior Drugs Inspector and Mylapore I/c
George Town - I Range
O/o the Assistant Director of Drugs Control
Zone - III, DMS Campus
No.359, Anna Salai
Chennai 600 006.
- 3.The Public Prosecutor,
High Court, Madras.

+2cc's to Mr.J.Sivanandaraaj, Advocate, S.R.No.40541

CrI.O.P. No.14985 of 2016

PPA(CO)

CA(20/07/2016)

<https://hcservices.ecourts.gov.in/hcservices>