

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2016

CORAM

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

Crl.O.P. No.24460 of 2016

and Crl.M.P.Nos.11703 and 11704 of 2016

Kalyanasundaram

Petitioner/ Accused

vs.

State of Tamil Nadu
rep by Drugs Inspector
Kanchipuram I Range
O/o the Assistant Director of
Drugs Control
Kanchipuram Zone,
Chennai 600 006.

Respondent/ Complainant

Criminal Original Petition filed under Section 482, Cr.P.C. to call for the entire records in C.C.No.353 of 2015 on the file of the Chief Judicial Magistrate, Chengalpattu and quash all further proceedings against the petitioner/accused.

For petitioner Mr.P.Ramesh Kumar

For respondent Mr. C.Emalias,
Additional Public Prosecutor

ORDER

This petition has been filed to call for the entire records in C.C.No.353 of 2015 on the file of the Chief Judicial Magistrate, Chengalpattu and quash all further proceedings against the petitioner/accused.

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

3. The complainant inspected the medical shop of the petitioner on 17.09.2014 and lifted samples of "C-Sal Expectorant (syrup of Terbutaline, Bromhexine & Guaiphenesin) Batch No:CSL 103, Mfd. Dt.Jan/2014, Exp. Dt.Dec/2015 and sent one sample to the Government Analysis for Analyst's report. The report dated 09.02.2015 given by the Government Analyst stated that the subject drug was not of standard quality, as it does not conform to the label claim with respect to the content of Terbutaline Sulphate.

4. After issuing show cause notice dated 12.02.2015, to M/s Jeevan Medicals, the complainant initiated prosecution in C.C.No.353 of 2015 before the Chief Judicial Magistrate, Chengalput against the petitioner herein, who is the manufacturer of the said drug for an offence u/s 18 (a) (i) r/w 27(d) of the Drugs and Cosmetics Act [hereinafter referred to as "the Act"]. Since the petitioner had elected to have the second sample sent to the Central Drugs Laboratory u/s 25(4) of the Act, the complainant requested the Court to send the second sample for analysis to the Central Drugs Laboratory, Kolkata.

5. Pursuant to the request, the Chief Judicial Magistrate, Chengalput sent the second sample to the Central Drugs Laboratory, Kolkata and the report dated 03.08.2015 received therefrom stated as follows:

"The sample conforms to claim with respect to Assay of "Terbutaline Sulphate".

6. Under Section 25(4) of the Act, the report of the Central Drugs Laboratory shall be conclusive evidence of the facts stated therein.

7. The learned Additional Public Prosecutor fairly conceded the position.

8. In view of the above, this petition is allowed and the prosecution in C.C.No.353 of 2015 on the file of the Chief Judicial Magistrate, Chengalpattu is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

gms
To

1.The Chief Judicial Magistrate,
Chengalpattu.

2.The Drugs Inspector
Kanchipuram I Range
O/o the Assistant Director of Drugs Control
Kanchipuram Zone, Chennai 600 006.

3.The Public Prosecutor,
High Court, Madras.

1 cc to Mr.R. Ramesh Kumar, Advocate., Sr. 64489

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RSY (CO)

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