

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.5074 OF 2016

-
ORDER:

-
This Criminal Petition is filed under Section 482 of Code of Criminal Procedure (Cr.P.C) seeking to quash the proceedings in C.C.No.236 of 2011 on the file of the X Metropolitan Magistrate, Cyberabad, registered for the offence under Section 18(a)(i) read with 17(B)(d) of the Drugs and Cosmetic Act and Rules 1945 punishable under Section 27(c) of the Drugs and Cosmetics Act.

Heard and perused the material.

Learned counsel for the petitioner submits that the Drug Inspector took the sample on 20.10.2009 and that the same was sent to the Government Analyst, Hyderabad and that the Government Analyst by report dated 14.05.2010 opined that the drug was of not standard quality. On 18.05.2010, the Court below directed to send the second sealed portion of the drug to the Central Drugs Lab, Kolkata as per Section 25(4) of the Drugs and Cosmetics Act. The Central Drugs Laboratory, Kolkata, by order dated 28.05.2010, addressed to the X Metropolitan Magistrate, Cyberabad at Malkajgiri, Hyderabad, stating that the sample has been received on 28.05.2010, whereas the expiry of the sample is May, 2010 and that the testing might have to be done after date of expiry. The said letter reads as under.

GOVERNMENT OF INDIA
OFFICE OF THE DIRECTOR
CENTRAL DRUGS LABORATORY
3, KYD STREET, KOLKATA – 700 016

Telefax: (033) 22299380

P.K.Guha
Director

No.2-1/2010-SS/93

Dated 28.05.2010

To
The X Metropolitan Magistrate,
Cyberabad at Malkajgiri, Hyderabad,
Andhra Pradesh.

Sub: Testing of Amoxycillin & Potassium Clavulanate for Oral Suspension
I.P (Clatemox Dry Syp), B.No.CD-6804, D/M 12/2008, D/E –
05/2010.

Ref: Your Memo No.CPR No.163/2010, dated 18-05-2010.

Hon'ble Sir

With reference to the above subject, this is to state that above referred sample has been received on 28th May, 2010, whereas the expiry of the sample is 05/2010. There is practically no time to undertake the testing of the sample as only one working day is left out.

Therefore, it is informed that the testing might have to be done after the date of expiry.

Yours faithfully,

(P.K.Guha)
Director
Central Drugs Laboratory
Kolkata

In view of the above, it is evident that the petitioner could not avail the valuable right of examining the sample for the second time. Hence, the proceedings against the petitioner are liable to be quashed.

In the result, the proceedings in C.C.No.236 of 2011 on the file of the X Metropolitan Magistrate, Cyberabad at Malkajgiri, Ranga Reddy District, are hereby quashed and the petitioner is acquitted of the offences charged.

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

JUSTICE RAJA ELANGO

11.04.2015

pln