

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.04.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

Crl.O.P.No.26630 of 2010
and
M.P.No.1 of 2010

K.Palaniappan

... Petitioner

vs

The State Rep. by
Senior Drugs Inspector,
Salem Zone,
Salem.

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the case in C.C.No.545 of 2002 on the file of the Judicial Magistrate Court, Thiruchengode and quash the same.

For Petitioner : Mr.I.C.Vasudevan

For Respondent : Mr.B.Ramesh Babu

Govt. Advocate (Crl.Side)

ORDER

The Petitioner herein is the accused No.11 in C.C.No.545 of 2002 on the file of the learned Judicial Magistrate Court, Thiruchengode, Nammakkal District, has come up with this Criminal Original Petition to quash the above Calendar Case.

2.The case of prosecution is that the petitioner along with accused 1 to 10 and 12 contravened the provision of Section 18 (a) (1) r/w section 17-13(d) of the Drugs and Cosmetics Act 1940 and there by committed the offence under section 27 (c) of said Act for having manufactured and sold the drugs "Amoxycillin Capsules I.P." which is spurious drugs.

3.It is the contention of the learned counsel for the petitioner that the 9th accused in the above case is the Firm, 10th accused is the Managing Partner of the Firm and the petitioner herein/11th Accused is one of the Partner of the Firm. According to the learned counsel for the petitioner, the 9th and 10th Accused one having licenses in Form 20-B, 21-B for procuring drugs from various licensed manufactures and dealers all over India and accordingly the petitioner had purchased the drug "Amoxycillin Capsules I.P" from the 8th Accused and sold it to the 12th Accused who is a retailed dealer. For the purchase of above drug from the 8th Accused, they have proper voucher. Therefore, the petitioner has not violated the above said provision of section 8(a)(1) r/w section 17-B(d) of the said Act, hence no offence could be made out against the petitioner under section 27(c) of said Act.

4.In this connection the learned counsel for the petitioner has drawn the attention of this Court to the order passed by this Court in Crl.O.P.No.22264 of 2005 dated 18.10.2005 and contented that in respect of the above C.C.No.545 of 2002, the proceedings against accused Nos.9, 10, and 12 were quashed by this Court in the above said criminal original petition. Hence, the learned counsel requested this Court to quash the proceedings in respect of the petitioner also, since he is in similar footing as that of accused Nos.9, 10 and 12.

5.In view of the above, it is useful extract para 9 of the above order which reads as follows:-

"Since the complaint itself is categorical to the effect that the petitioners purchased the drugs from the licensed wholesale dealer, this Court is of the considered view that in the light of the provisions of law referred to supra, the petitioners cannot be said to have contravened the provision under section 18 (a) (1) read with section 17-B (d) of the said Act. In view of the above discussion, the case in C.C.No.545 of 2002 on the file of the Judicial Magistrate, Tiruchengode in so far as the Accused Nos. 9, 10 and 12/petitioners herein are concerned is quashed. This petition is ordered accordingly. Consequently, no orders are necessary in Crl.M.P.Nos. 6390, 6391 of 2005 and they are closed".

6.This Court has carefully considered the rival submission on either side. Admittedly, this Court by order dated 18.10.2005 cited supra quashed the proceedings for the accused Nos.9, 10

and 12 in respect of C.C.No.545 of 2002 on the file of the learned Judicial Magistrate Court, Tiruchengodu. The petitioner herein is 11th accused in the above CC and therefore the above said order is applicable to him also. Hence, this Court once again need not re do the exercise already done by this Court.

7.In the light of the above facts and as per the decision of this Court cited above, I am of the view that the Calendar Case in C.C.No.545 of 2002 against the petitioner/11th accused is liable to be quashed.

8.In the result, this Criminal Original Petition is allowed and the proceedings in C.C.No.545 of 2002 on the file of the learned Judicial Magistrate, Tiruchengode, is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

vs

To

The Judicial Magistrate,
Tiruchengode.

+1 cc to Mr.I.C.Vasudevan, Advocate Sr.NO.23998

सत्यमेव जयते

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and

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CSL/09.01.2019

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