



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 07.06.2018  
CORAM  
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

Crl.O.P(MD) No.18084 of 2013  
and  
M.P.(MD) No.1 of 2013

1.Alfred Berghs & Co (I) Pvt Ltd,  
28-C, Sidco Pharmaceutical Complex,  
Alandur - 603 110  
represented by its Director,  
Kamalesh Jain.

2.Kamalesh Jain

...Petitioners

Vs.

State represented by Drugs Inspector,  
Thirunelveli II Range i/c,  
O/o. Assistant Director of Drugs Control,  
Thirunelveli Zone,  
C36, 25th Cross Street,  
Maharajanagar,  
Thirunelveli - 11.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, calling for the records to C.C.No.39 of 2011 pending on the Judicial Magistrate No.1 Thirunelveli and quash the same.

For Petitioners :Mr.K.A.Thirumalaiappan

For Respondent :Mr.A.Robinson

Government Advocate (Crl. Side)

O R D E R

The first petitioner herein is a manufacturer of Tablets. On 16.07.2008, the complainant herein drew the sample of Dexamethasone Tablets. The Tablets had shelf life of two years from April 2008 to April 2010. The Government analyst report was received on 04.03.2009. It was adverse to the petitioners. The same was served on the petitioners along with a communication from the respondent on 01.06.2009. The petitioners gave their explanation on 01.07.2009 intending to controvert the conclusions set out in the Government analyst report.

2.In this case, the respondent did not file a complaint immediately. Thereafter, the Assistant Director of Drugs Control,



gave his sanction only on 06.04.2011 and only thereafter, the present complaint was filed on 07.04.2010.

3.The learned Judicial Magistrate No.I, Tirunelveli, took the same on file in C.C.No.39 of 2011 and issued summon to the petitioners, calling upon the petitioners to appear on 16.05.2011. No doubt, the petitioners herein have a right to move the Court concerned for re-testing the samples.

4.But in this case, by the time, the petitioners received the summons from the learned Judicial Magistrate No.I, Tirunelveli, the shelf life of the Tablets in question already got expired. Therefore, the valuable right of the petitioners to have a sample re-tested was deprived.

5.In a similar circumstance, a learned Judge of this Court, by an order dated 16.08.2013, in CrI.O.P.(MD) No.16931 of 2013, quashed the same proceedings.

6.The learned counsel appearing for the petitioners also placed reliance on the decision of the Hon'ble Supreme Court, dated 13.03.2008 in CrI.A.No.483 of 2008.

7.This Court is of the view that the case on hand, is squarely covered by the aforesaid decisions. Allowing the impugned prosecution would only be an abuse of legal process. Therefore, the impugned proceeding is quashed and the Criminal Original Petition is allowed. consequently, the connected miscellaneous petition is closed.

Sd/  
Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar

To

- 1.The Drugs Inspector,  
Thirunelveli II Range i/c,  
O/o. Assistant Director of Drugs Control,  
Thirunelveli Zone,  
C36, 25th Cross Street,  
Maharajanagar,  
Thirunelveli - 11.
- 2.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

CrI.O.P(MD) No.18084 of 2013  
07.06.2018