

HON' BLE SRI JUSTICE Dr. B. SIVA SANKARA RAO

CRIMINAL PETITION No.702 of 2018

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. by the petitioners/ A1 and A2 seeking to quash the proceedings in C.C.No.8 of 2017 on the file of the XII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, which is an outcome of the private complaint of the Drug Inspector, Hyderabad, represented by the Public Prosecutor for the State of Telangana.

2. Petitioners 1 and 2 herein are A1 and A2 in the above C.C. viz. M/s.Minopharm Laboratories Private Limited, represented by its Managing Director, K.Anil Kumar and said K.Anil Kumar in individual capacity also as A2. The cognizance taken is for the offences punishable under Sections 18(a)(i) r/w Sections 16, 27(d) of the Drugs and Cosmetics Act, 1940 (for short 'the Act') and Rules of 1945 framed thereunder.

3. A perusal of the complaint averments show that on 24.09.2013, the then Drugs Inspector lifted the drug 4x6x10 tablets of Metronidazole tablets IP Batch No.MTZ-009 manufacturing date nil, June, 2013, expiry date nil, May, 2015, manufactured by M/s.Minopharm Laboratories Private Limited (A1) at IDA, Pernamitta, Ongole with registered office at Hyderabad from the medical store of LW.2-I.Gowri, Niloufer Hospital for Women and Children, Hyderabad, for analysis under intimation in Form-17 following the due procedure under Section

23 of the Act by dividing sample into four portions and the Drug Inspector offered LW.2 to put their seal, LW.2 signed, dated and stamped and LW.1 issued a copy in Form-17 and Form-17A to LW2 and LW1 sent the sample to the Government Analyst, Drugs Control Laboratory, Hyderabad on 25.09.2013 and also signed in Form-18 to the Government Analyst with specimen impression on seals used in sealing the sample and on 24.04.2014 received report in Form-13 from the Government Analyst stating the Drug is not of standard quality(NSQ) for the reason that sample does not comply the test for dissolution as per I.P.....

4. The contention in the quash petition mainly is that in the self same batch from the seizure at other place within the State of Telangana by then composite State, prior to the Reorganisation Act, 2014, the sample collected and the Central Lab report by the Director incharge of Central Drugs Laboratory, New Delhi, dated 05.03.2015 on analysis shows the Batch No.MTZ-009 manufacturing date nil, June, 2013, expiry date nil, May, 2015, manufactured by M/s.Minopharm Laboratories Private Limited, Hyderabad of the Metronidazole tablets I.P 400 mg of the result shows the sample is of standard quality in regard to the test for Dissolution as per I.P. examined as per the direction of the learned Judicial Magistrate of First Class, Kurnool and confirms to I.P. with respect to the test for dissolution as average drug releases 93.02% of claim not less than 85% of claim respectively and complies with IP or that give the positive test.

5. Once such is the case and for the self same batch, the benefit goes to the petitioners of drug standard quality and there from, no prosecution launch to continue the proceedings of the same batch in other cases.

6. Having regard to the above, the Criminal Petition is allowed quashing the proceedings against the petitioners/ A1 and A2 in C.C.No.8 of 2017 on the file of the XII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad.

7. Consequently, miscellaneous petitions, if any shall stand closed.

Date: 14.12.2018

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JUSTICE Dr. B.SIVA SANKARA RAO

