

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.46 OF 2019

M/s. Jark Pharma Pvt. Ltd.
B/12, M.P. Shah Municipal Industrial
Estate, Saru Section Road,
Jamnagar-361 002
Through : Its Manager Legal and authorized
person – Mr.Sagar Singhal s/o. Vedprakash
Singhal, Age 33 years, Occu:Manager Legal
R/o. M/s. Jark Pharma Pvt. Ltd.
B/12, M.P.Shah Municipal Industrial
Estate, Saru Section Road, State of Gujrat
Jamnagar-361 002.
At present Jarak Pharma Pvt. Ltd.
Padala Road, Veraral (Shapur)
Ta.Kotada Sangani, Dist:Rajkot (Gujrat)
India 360024

.. PETITIONER

VERSUS

The State of Maharashtra
Through Pravin Dinkar Harak,
Age 39 years, Occu:Govt. Service,
working as Drugs Inspector,
in the office of Joint Commissioner,
Food and Drug Administration,
(M.S.) 2nd Floor, Nath Super Market,
Aurangpura, Aurangabad,
District Aurangabad.

..RESPONDENT

...

Mr.N.L.Jadhav, Advocate for the petitioner.
Mr.S.Y.Mahajan, Addl.P.P. for the State

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CORAM: V.M.DESHPANDE, J.

DATE : 18.03.2019

ORAL JUDGMENT :

1] Rule. Rule returnable forthwith with the consent of the parties.

2] Heard Shri N.L.Jadhav, learned counsel for the petitioner and Shri S.Y. Mahajan, learned Additional Public Prosecutor for the respondent – State.

3] The petitioner – a Company, who is joined as accused no.3 in the complaint filed by the respondent – Drugs Inspector, Aurangabad, is praying for quashing of the said complaint.

4] At the instance of the State, Pravin Dinkar Harak, the Drugs Inspector filed a complaint against M/s. Jark Pharma Pvt. Ltd. i.e. the present petitioner. According to the

complaint, there is contravention, at the behest of the accused, in respect of the provision of Section 3 (d) r/w. Sr. No. 38 of Schedule, Section 4 (a), (b) and (c) punishable under Section 7 read with Section 9 of the Drugs & Magic Remedies (Objectionable Advertisement) Act, 1954 and Rules made thereunder.

5] According to the learned counsel for the petitioner, in view of the statement in para 8 of the complaint itself, the complaint is required to be set aside.

6] Para 8 of the complaint reads as under:

8 That on 23/09/2016 complainant along with Shri. M.K.Kaleshwarkar, Drug Inspector, Aurangabad and independent panchas visited the premises of accused no.04.

During inspection Shri Abhiraj Kishor Bharuka, Manager of said shop was present. During inspection complainant found additional stock of following drugs along with drugs segregated on 14/09/2016 containing objectionable claims as follows

- 1 "Sleemo Capsules" B.No.001, Mfg.Date.04/2016, Exp. Date.03/2019, Mfg by.Jark Pharma Pvt.Ltd., B-12, M.P.Shah, Muni Industrial Estate, Jamnagar-361002, Gujrat bears following objectionable claims on label:

"Indication: Useful in obesity and fatty body." Although line made by marker on indication still it was readable suggest or calculated to lead to the use of that drug for the obesity.

- 2 "Sleemo Liquid Plus" B.No.064, Mfg.Date.02/2016, Exp.Date.01/2019, Mfg by.Jark Pharma Pvt.Ltd., B-12, M.P.Shah, Muni Industrial Estate,

Jamnagar-361002, Gujrat
bears following
objectionable claims on
label:

"Indication: Useful in
obesity and fatty body."
Although line made by
marker on indication still
it was readable suggest or
calculated to lead to the
use of that drug for the
obesity.

(Hereafter referred as "the said drugs"), this suggests that said drugs are useful in treatment of obesity. Thereby contravened provision of Section 3 (d) r/w Schedule at Sr. No.38 and Section 4 of the said Act.

7] In the said complaint it is stated that although line made by marker on indication still it was readable suggest or calculated to lead to the use of that drug for the obesity.

8] According to the learned counsel for the petitioner, this itself is sufficient to

quash the complaint qua the present petitioner.

9] In my view, this requires leading of evidence. On the face of the record, it cannot be done without opportunity being given to the Drugs Inspector to adduce the evidence. Hence, no case is made out. The Writ Petition is rejected. Rule stands discharged.

[V.M.DESHPANDE]
JUDGE

DDC