

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.1802 OF 2019

Pioma Chemicals

... Petitioner

Vs

The State of Maharashtra & anr.

... Respondents

Mr.Ashok Pnade for the Petitioner

Mr.A.R. Patil, APP, for the Respondent – State

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: MAY 3, 2019

P.C.:

1. Learned Counsel for the petitioner submits that a stock of Lactitol Monohydrate Crystals USP/DP of 36 kgs. (commonly known as 'Isabgol') was seized after inspection carried out by the Inspector at Bhiwandi at Bhiwandi godown. However, the Inspector working under the Drugs and Cosmetics Act filed complaint before the learned Metropolitan Magistrate, 15th Court, Sewree, Mumbai, for contravention of section 18(b) r/w section 3(b) and the Rules punishable under section 27(d) of the Drugs and Cosmetics Act. The learned Counsel submits that the applicant/accused has moved application for return of property before the learned

Magistrate at Bhiwandi, who had rejected the said application. Against the said order dated 7.8.2018, he preferred Criminal Revision Application No.198 of 2018 before the learned Additional Sessions Judge, Thane. However, the said revision application was rejected on the ground of territorial jurisdiction by order dated 14.2.2019 on the ground that the Inspector under the Drugs and Cosmetics Act had filed a Criminal Case No.1500215/SW/17 in the Court of the learned Metropolitan Magistrate, 15th Court, Sewree, Mumbai, in respect of the said offence and the same property.

2. Perused the order dated 14.2.2019. Considered the submissions of the learned Counsel for the applicant/accused. The learned Prosecutor confirms that if such case is filed before the learned Metropolitan Magistrate by the concerned Inspector at Sewree, Mumbai, then, the jurisdiction to decide the matter under section 457 of Criminal Procedure Code will be before the Court at Sewree, Mumbai. He submits that any application for return of property is to be moved before the Court where the criminal case is pending.

3. In view of the submissions, without issuing notice to the other side, this Writ Petition is disposed of with the following order:

i) The petitioner is allowed to move a fresh application before the learned Metropolitan Magistrate at Sewree, Mumbai, where the criminal case is filed by the Drug Inspector.

ii) The order passed by the learned Magistrate at Bhiwandi is not to be considered by the learned Metropolitan Magistrate, Sewree and the application, if made, is to be decided on merits at the earliest by the learned Magistrate.

4. The Writ Petition is disposed of accordingly.

(MRIDULA BHATKAR, J.)