

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.4467 of 2013 and
M.P.No.1 of 2013

1. A.P.Manivannan
2. B.Kathiravan

... Petitioners/Accused 2 & 3

Vs.

K.Nandakumar, B.Pharm
The Drugs Inspector,
Erode II Range,
O/o The Assistant Director of Drugs Control,
Coimbatore Zone, Coimbatore. ... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to C.C.No.113 of 2009 on the file of the learned Judicial Magistrate No.I, Gobichetipalayam and quash the same by allowing this criminal original petition.

For Petitioners : Mr.M.Guruprasad
For Respondent : Mr.R.Surya Prakash
Govt. Advocate (Crl.Side)

ORDER

This criminal original petition has been filed seeking to quash the proceedings in C.C.No.113 of 2009 on the file of the learned Judicial Magistrate No.I, Gobichetipalayam.

2 According to learned counsel appearing for the petitioner, the petitioner herein is only a licensed distributor of the Drug and he is not responsible for the mistake committed by the manufacturer. There is no roll played the petitioner in the manufacturing of the defective drugs as alleged by the respondent and as per the guidelines of the Hon'ble Supreme Court, the distributors cannot be prosecuted for mistake committed by the manufacturer. Therefore, the petitioner, being only a distributor, cannot go in ascertain the fact that whether the manufacturer is producing the drugs as per Act. Hence the calender case against the petitioner may be quashed.

3 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the respondent seized the

samples from the first respondent firm and sent to Government Lab and test report was received stating that the same is not of standard quality and based on the information given by the first accused partnership firm, other accused were implicated in this case. Therefore, without the petitioners, the case of the prosecution cannot be proved. Hence, the calender case cannot be quashed as against the petitioners.

4 Heard the learned counsel appearing on either side and perused the materials available on record.

5 Admittedly, the defective samples have been seized from the first accused partnership firm and second and third accused, who are petitioners herein are the managing partners of the firm. Therefore, this Court is of the view that origin of the case of prosecution is the first accused partnership firm and the petitioners herein, who are the managing partners of the said firm and hence innocence of the petitioners cannot be decided under 482 of Cr.P.C. Whatever the defence available for them, they can very well establish the same during trial.

6 In the result, the criminal original petition is dismissed. Consequently connected miscellaneous petition is closed. However, the petitioners are at liberty to raise all their defence before the Court below during trial and further it is made clear that the trial Court shall dispose of the calender case without influencing any of the observations made in this order.

Sd/-

Assistant Registrar (C.O.)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.I, Gobichetipalayam.
2. The Chief Judicial Magistrate, Gobichetipalayam.
3. The Drugs Inspector, Erode II Range,
O/o The Assistant Director of Drugs Control,
Coimbatore Zone, Coimbatore.
4. The Public Prosecutor, High Court of Madras.

+1 cc to M/s.M.Guruprasad, Advocate Sr.No.97721

AKM/28.01.2020/2P-6C /

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