

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2019

CORAM

THE HONOURABLE MR. JUSTICE P. VELMURUGAN

CrI.R.C.No.464 of 2018
and
CrI.M.P.No.5592 of 2018

1. M/s Seamac Formulations Private Limited,
Represented by its Managing Director
Mr.Atul Talwar.
2. Atul Talwar
Managing Director of
M/s Seamac Formulations Pvt. Ltd.,
3. Kalpana Gora,
Authorised Signatory of
M/s Seamac Formulations Pvt. Ltd.,
...Petitioners/Petitioners/A1,2 & 4

.Vs.

The State of Tamil Nadu,
represented by the Drugs Inspector,
Thiruvallur Range,
Thiruvallur District. ... Respondent/Complainant

Prayer:- Criminal Revision Petition filed under Section 397
r/w Section 401 of Criminal Procedure Code, to set aside the
order in C.M.P.No.3188 of 2016 in C.C.No.160 of 2015, dated
12.02.2018, on the file of Chief Judicial Magistrate,
Thiruvallur.

For Petitioners/A1,2 & 4 : Mr.M.Rajamani

For Respondent/Respondent : Mr.R.Ravichandran
Government Advocate
[CrI.Side]

O R D E R

The Criminal Revision Petition is filed by the revision petitioners herein, to set aside the impugned order in Crl.M.P.No.3188 of 2016, in C.C.No.160 of 2015 dated 12.02.2018, passed by the learned Chief Judicial Magistrate, Thiruvallur.

2.The respondent police/State filed the charge sheet against the revision petitioners/A1, A2 & A4 herein, for offence under Section 18(a)(i) of Drugs and Cosmetics Act, 1940 and Rules made thereunder, punishable under Section 27(d) of the said Act. After completing the investigation, cognizance of the offence was taken in C.C.No.160 of 2015. Thereafter, discharge petition was filed by the revision petitioners/A1, A2 and A4 under Section 239 of Cr.P.C., to discharge them from the offence. Subsequently, after perusing the entire materials on record, the same was dismissed in Crl.M.P.No.3188 of 2016, by the learned Chief Judicial Magistrate, Thiruvallur. Challenging the same, the petitioners have filed the present revision petition.

3.The learned counsel appearing for the petitioners/A1, A2 and A4 would submit that the petitioners are not the Directors of the Company at the relevant point of time. Therefore, they are not responsible for the day-to-day affairs of the Company. However, the respondent/complainant has stated that only A1 alone is responsible for the day-to day affairs of the Company. This fact has not been properly appreciated by the learned Chief Judicial Magistrate. Therefore, the order passed by the learned Chief Judicial Magistrate warrants interference.

4.The learned counsel appearing for the respondent/State would submit that the revision petitioners submitted Form-26, which clearly shows the list of Directors, and the names of the revision petitioners are also found in Form-26. Therefore, the contention raised by the petitioners was considered by the Trial Court, and it also appreciated the facts and the Court found prima facie materials to proceed with the case against the revision petitioners. Therefore, this Court shall not interfere with the impugned order passed by the Trial Court.

5.Heard both sides and perused all the materials available on record.

6.The case of the revision petitioners, is that they are not the Directors of the Company at the relevant point of time. Therefore, the revision petitioners/A1, A2 and A4 are not responsible for the criminal offence, when they are not the Directors at the time of commission of the offence, more particularly when they were not the Directors of the Company at the relevant point of time.

7. On a reading of the materials on record, as stated by the petitioners, the agreement was only made in the name of the Directors and it wrongly mentioned. However, the List of Directors in Form-26, clearly shows that it was submitted and signed on 09.04.2015. In the list, the name of the revision petitioners are shown as Directors. Whether they are responsible for the day-to-day affairs of the Company or not, has to be established only after recording the evidence during the trial and not at this stage.

8. It is well settled proposition that while discharging the revision petitioners under Section 239 of CrPC., whether the document filed by the prosecution under Section 173 of CrPC., has to be considered and not by the defence taken by the respondent/complainant. Therefore, under these circumstances, this Court does not find any perversity in the order passed by the learned Chief Judicial Magistrate. On a reading of the materials submitted by the prosecution, the names of the revision petitioners also have been shown in the List of Directors. Therefore, it is for them to prove that at the relevant point of time, revision petitioners/A1, A2 and A4 are not the Directors of the Company and they have not submitted any document to show that they are not the Directors of the Company. However, on a conjoint reading of the materials, there is prima facie case made against the revision petitioners to proceed further. Therefore, this Court does not find any reason to interfere with the order passed by the learned Chief Judicial Magistrate.

9. With the above observations, the Criminal Revision Petition is dismissed. Consequently, connected CrI.M.P.No.5592 of 2018 is closed.

msm

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chief Judicial Magistrate,
Thiruvallur.

2. The Drugs Inspector,
State of Tamil Nadu,
Thiruvallur Range,
Thiruvallur District.

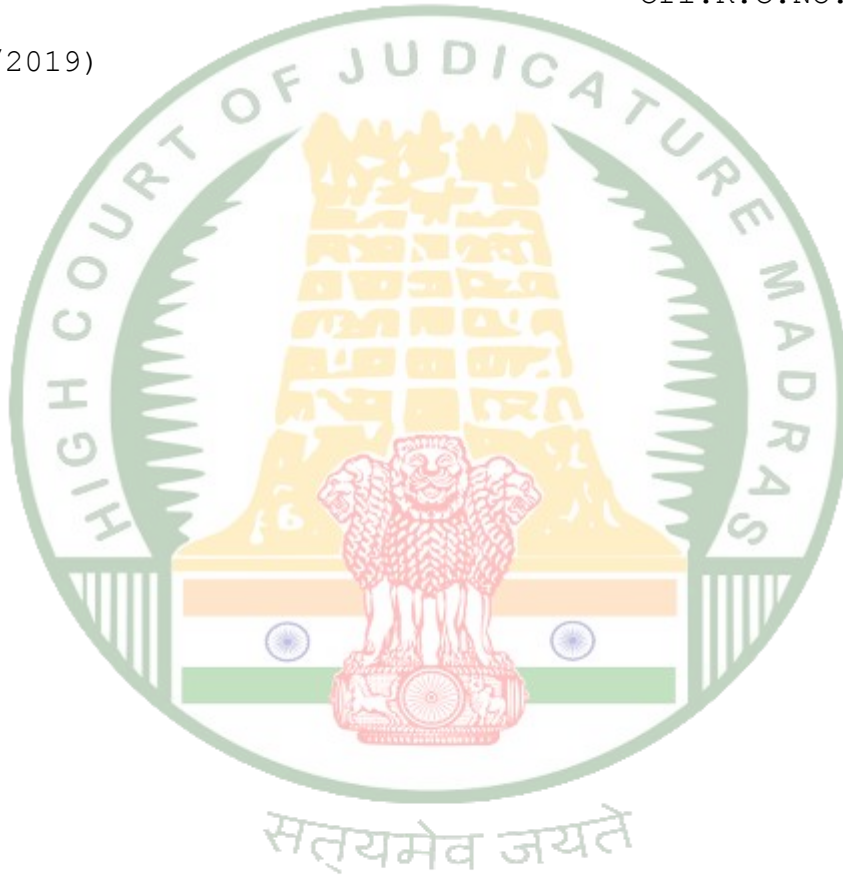
Copy to:-

The Section Officer,
Criminal Section,
High Court, Madras - 104.

+1CC to Mr.Rajamani, Advocate, vide Sr.No.12152

Cr1.R.C.No.464 of 2018

kak (07/03/2019)



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