

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No. 11316 of 2014
and M.P.No. 1 of 2014

Dr. Shobana

... Petitioner

Vs.

The State of Tamil Nadu rep. by
M.Rani, M.Pharm Drugs Inspector,
T.Nagar Range,
O/o. The Assistant Director of Drugs Control,
Zone II, D.M.S.Campus,
No.259-261, Annasalai,
Teynampet, Chennai - 600 006.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in C.C.No.643 of 2014 on the file of the learned IV Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioner : Mr.V.Krishnamoorthy

For Respondent : Mr.Mohammed Riyaz
Additional Public Prosecutor.

O R D E R

This petition is directed as against the proceedings in C.C.No.643 of 2014 on the file of the learned IV Metropolitan Magistrate, Saidapet, Chennai, thereby taken cognizance for the offences punishable under Sections 18(1)(c) and 27(d) of the Drugs and Cosmetics Act.

2. The learned counsel appearing for the petitioner submitted that the respondent filed a complaint under the Drugs and Cosmetics Act for the offences punishable under Sections 18(1)(c) and 27(d) of the Act, on the allegations that on 05.11.2012, the respondent received complaint as against the petitioner alleging that she has dispensed the drugs to the patients without having licence by utilizing sales bills of another pharmacy. Further submitted that the petitioner is the Doctor and license holder of Divya Pharmacy. Similarly she also

running hospital in the name and style of M/s.Astra Hospital, Harley Clinic and she is the owner of both concerned. He further submitted that the Doctor can dispense medicine to her parents. The Doctor requires no license for dispensing medicine to the patient. According to the petitioner, she can keep medicine in the clinic and dispense the medicine to the patients. The petitioner need not to hold licence to medicine from her own pharmacy. He further submitted that the charge is that Divya Pharmacy does not have any whole sale licence to distribute or sale to another pharmacy, does not stand in the eyes of law, since there is no another pharmacy but only a clinic. Therefore, he sought for quashment of the entire proceedings.

3. The learned Additional Public Prosecutor filed the counter submitted by the respondent and contended that the respondent initiated proceedings under the Drugs and Cosmetic Act punishable under Sections 18(1)(c) and 27(d) of the Act, as against the petitioner. The respondent received a complaint against the petitioner alleging that the petitioner had dispensed the drugs to the patients without having drugs licence. When the respondent conducted inspection, it was found that the petitioner was running a clinic in the name and style of M/s. Astra Hospital, Harley Clinic. Further, the respondent found that the firm has stocked various category of Allopathy drugs for sale. On enquiry it was also found that the firm does not have any drugs licence for dispense or sale of medicine. Further submitted that the petitioner has acquired the drugs stock at Harley Clinic from M/s. Divya Pharmacy, Adyar, Chennai. Therefore, he prayed for dismissal of the quash petition.

4. Heard Mr.V.Krishnamoorthy, learned counsel appearing for the petitioner, Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the respondent.

5. The respondent filed complaint as against the petitioner, in which the trial Court have taken cognizance for the offence punishable under Section Sections 18(1)(c) and 27(d) of the Drugs and Cosmetic Act. Admittedly, the petitioner is a Doctor and she is running a clinic in the name and style of M/s. Astra Hospital, Harley Clinic. She also possess licence for Divya Pharmacy, Adyar, Chennai. She is the owner of both the clinic and the medical shop. She has valid licence to keep the medicines and to dispense the medicine to her patient.

6. Further it is seen that the respondent issued show cause notice dated 27.05.2013 to the petitioner for which she replied by reply dated 06.06.2013, thereby explained the above facts and circumstances to the respondent. In the reply, she categorically stated that she has acquired the seized drug from the licensed pharmacy ie., Divya Pharmacy, Adayar, Chennai. The

said Divya Pharmacy owned by the petitioner herself and she had valid licence under the Drugs and Cosmetics Act. Therefore, no charge can be attracted as against the petitioner as alleged by the respondent. More over, the Doctor can dispense the medicine to her patient for which, no licence required under the Act, as such the impugned complaint cannot be sustained as against the petitioner.

7. In view of the above discussions, this Criminal Original Petition stands allowed and the proceedings in C.C.No.643 of 2014 on the file of the learned IV Metropolitan Magistrate, Saidapet, Chennai, is hereby quashed. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rts

To

1. The IV Metropolitan Magistrate Court,
Saidapet, Chennai
2. The Drugs Inspector,
T.Nagar Range,
O/o. The Assistant Director of Drugs Control,
Zone II, D.M.S.Campus,
No.259-261, Annasalai,
Teynampet, Chennai - 600 006.
3. The Public Prosecutor,
High Court of Madras,
Chennai.

+1cc to Mr.V.Krishnamoorthy, Advocate Sr.24648

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srg 23/05/2019