

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2020

CORAM :

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P.No.25067 of 2019

- 1.M/s.Badder Schulz Laboratories Pharma Division,
Represented by its partner,
Mr.Nailesh Kirtilal Shah.
- 2.Shri Nailesh Kirtilal Shah
- 3.Shri Kalpesh Kirtilal Shah
- 4.Dr.Ranjana Singh

...Petitioners

Vs

The Tamil Nadu State Represented by
The Drugs Inspector, Avadi Range,
O/o The Assistant Director of Drugs Control,
Tiruvallur Zone.

...Respondent

PRAYER: Criminal Original Petition filed under Section 407 of Criminal Procedure Code praying to transfer C.C.No.162 of 2019 from the file of learned Chief Judicial Magistrate, Thiruvallur to XV Metropolitan Magistrate, George Town, Chennai.

For Petitioners: Mr.P.Ramesh Kumar

For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor.

O R D E R

(through Video Conference)

This Criminal Original Petition has been filed seeking the relief to transfer C.C.No.162 of 2019 from the file of learned Chief Judicial Magistrate, Thiruvallur to learned XV Metropolitan Magistrate, George Town, Chennai.

2.Heard Mr.P.Ramesh Kumar, learned Counsel appearing for the Petitioners and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing on behalf of the respondent.

3.The Petitioners are arrayed as accused 1 to 4 in C.C.No.162 of 2019 pending on the file of Chief Judicial Magistrate, Thiruvallur and they have been charged for the offence under Section 18 (a)(i) read with 27 (d) of Drugs and

Cosmetics Act alleging that the petitioners had manufactured and sold Dexamethasone Tablets IP which were not of standard quality.

4. In respect to the prayer sought for by the Petitioners, the learned Counsel appearing for the Petitioners would submit that the Petitioners herein are facing one another case before the XV Metropolitan Magistrate Court, George Town in which the drug Inspector, Chennai made allegation against the Petitioners as they have committed the same offence as alleged in the case registered in Thiruvallur District. In this regard, he would further submit that since both the cases are registered under Drugs and Cosmetics Act, if the case pending on the file of Chief Judicial Magistrate, Thiruvallur District is transferred to XV Metropolitan Magistrate Court, George Town, Chennai, it would be easy for the petitioners to appear before the XV Metropolitan Magistrate Court, George Town, Chennai.

5. In respect of the submissions made by the learned Counsel appearing for the Petitioners, the learned Additional Public Prosecutor appearing on behalf of the respondent would submit that though the two cases referred by the Petitioners are similar in nature, both the cases were instituted based on the report filed by the two different drug Inspectors. He would specifically submit that transferring the case cannot be ordered for the convenience of the parties.

6. Now on considering the rival submissions made by the learned Counsel appearing on either sides, it is seen that in the petition filed by the Petitioners, the reason for allowing this application stated in paragraph no.5 is as follows;

"I further submit that the complaint is filed at Thiruvallur, which is very remote place and it is highly impossible to reach for the case in time and it takes a couple of days to leave and reach my place of business. It is also highly difficult to diligently appear and conduct the case."

In fact, the distance between Chennai and Thiruvallur is nearly 54 km and therefore, it is not difficult for the Petitioners to attend the Court proceedings at Thiruvallur. More than that, being the accused, wanted a better accommodation for facing trial is not appreciative.

7. Therefore, if the prayer sought for by the Petitioners are decided in their favour, it would cause prejudice to the respondent who has registered the case against the Petitioners in Thiruvallur. Further, since the alleged offences had happened in two different places, only by considering territorial jurisdiction, both the cases are instituted before

different forums. Therefore, in the said circumstances, I am of the firm view that the case instituted in particular forum, cannot be transferred for the convenience of the parties.

8. Accordingly, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

To

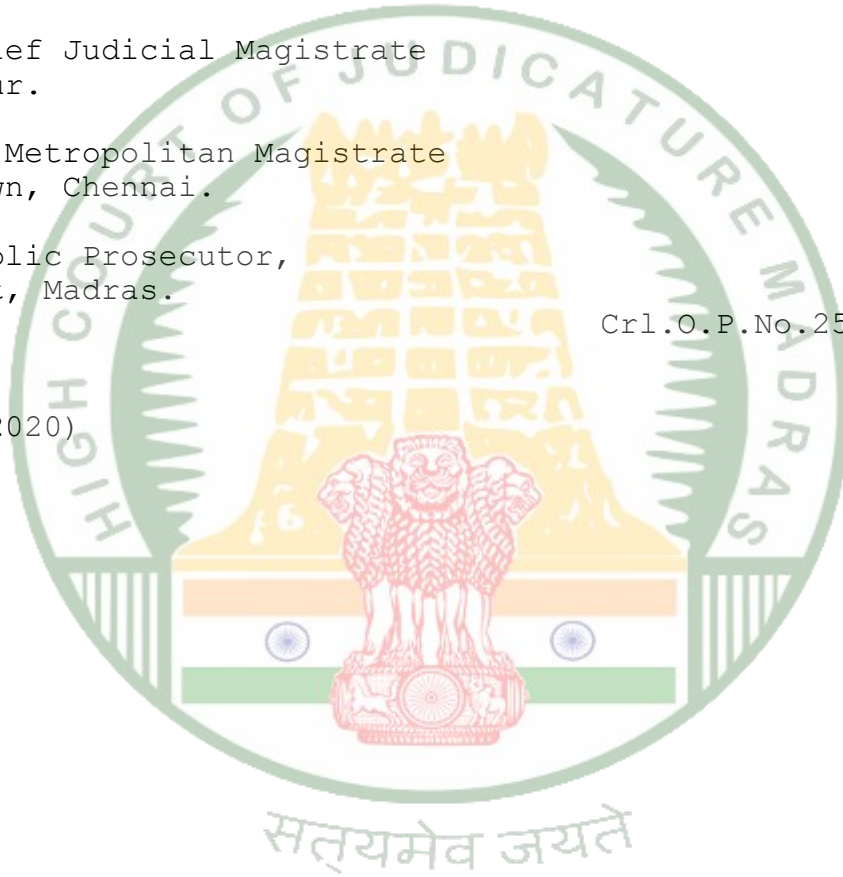
1. The Chief Judicial Magistrate
Thiruvallur.

2. The XV Metropolitan Magistrate
George Town, Chennai.

3. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.25067 of 2019

AD(CO)
RV(10/12/2020)



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