



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.301 of 2020

and

Crl.M.P. (MD) Nos.92 and 93 of 2020

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1.M/s.Celon Laboratories Pvt. Ltd.,
Rep. by Nages Kumar Middey
Whole Time Director.

2.Nages Kumar Middey

... Petitioners/Accused

Vs.

State rep by
Drugs Inspector,
Theni Range,
Madurai Zone.

... Respondent/Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in C.C.No.277 of 2019 pending in the Court of Judicial Magistrate at Aundipatti and quash the same.

For Petitioners : Mr.AR.L.Sundarasan, Senior Counsel
For Mr.R.Pon Karthikeyan
For Respondent : Mr.A.Robinson
Govt. Advocate (Crl. Side)

O R D E R

The petitioners are facing trial in C.C.No.277 of 2019 on the file of the learned Judicial Magistrate, Aundipatti, for the offences under Sections 18(1)(i) and 18(B) r/w. 27(d) and 28(A) of Drugs and Cosmetics Act, 1940. It is a statutory complaint instituted by the respondent herein. To quash the same, this criminal original petition has been filed.

2.Heard the learned senior counsel appearing for the petitioners and the learned Government Advocate (Crl. Side) appearing for the respondent.

3.In the counter filed by the respondent, it has been fairly admitted that in view of the report submitted by the Central Drugs Laboratory, Kolkata, the offence under Section 18(a)(i) of the Act is no longer survive. But the learned Government Advocate (Crl. Side) would contend that complaint is maintainable in respect of the remaining offence under Section 18(B) of Drugs and Cosmetics Act, 1940. Section 18(B) of the aforesaid Act reads as under:-

"18B.Maintenance of records and furnishing of information:- Every person holding a licence under clause (c) of Section 18 shall keep and maintain such



records, registers and other documents as may be prescribed and shall furnish to any officer or authority exercising any power or discharging any function under this Act such information as is required by such officer or authority for carrying out the purpose of this Act."

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4.The case of the complainant is that he sought for the constitution particulars of the first petitioner company and that the same was not furnished by the petitioners and that therefore, the offence under Section 18(B) of the Act is prima facie made out. But then, as rightly pointed by the learned senior counsel appearing for the petitioners, even in the complaint, it had been fairly stated that the constitution details were obtained from a web site "MCA-21" on 08.05.2019. Thus, the petitioners have not attempted to hide any information from the authority. The details sought for by the complainant are very much available in the public domain. The complainant was able to obtain it on its own initiative from the official web site. In such a case, the respondent need not have even asked the first petitioner to furnish the information. He could have directly accessed to the official web site maintained by the Ministry of Corporate Affairs. Therefore, the complainant could have straight away accessed the official web site at the first instance itself. Therefore, the petitioner ought not to be penalized for not furnishing an information that is already available in the public domain. In this view of the matter, continuance of the impugned proceedings would amount to an abuse of legal process. The impugned proceedings stand quashed. The criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

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Sub Assistant Registrar(CS)

Ias

To:

- 1.The Judicial Magistrate,
Aundipatti.
- 2.The Drugs Inspector,
Theni Range, Madurai Zone.

+1 CC to M/s.R.PON KARTHIKEYAN, Advocate (SR-11237[F] dated 12/03/2020)

Crl.O.P(MD)No.301 of 2020

AP(04/06/2020) 2P 4C

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