

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**FRIDAY, THE FIFTH DAY OF MARCH
TWO THOUSAND AND TWENTY ONE**

**PRESENT
THE HONOURABLE DR. JUSTICE SHAMEEM AKTHER**

CRIMINAL PETITION NO: 3811 OF 2013

Between:

1. M.Rajashekar, S/o.Sri M.Rajesham, Managing Partner of M/s.Swarna Pharma (A1), Hyderabad now R/o.Laxminagar, Karimnagar.
2. M/s. Swarna Pharma, Habsiguda Hyderabad, rep. by M.Rajashekar, Managing Partner (formal party)

...PETITIONERS/ACCUSED NOS.2 & 1

AND

The State of A.P., rep. by its Public Prosecutor, High Court of A.P., Hyderabad.

...RESPONDENT

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to call for the records and quash the criminal complaint in STC No.362 of 2006 on the file of the III Metropolitan Magistrate Cyberabad, at LB Nagar.

CRLPMP. NO: 3447 OF 2013

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings in STC No.362 of 2006 on the file of the III Metropolitan Magistrate, Cyberabad, at LB Nagar.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri RAJASRI MANCHE, Advocate for the Petitioners and of the Public Prosecutor on behalf of the Respondent.

The Court made the following: ORDER

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.3811 of 2013

ORDER:

Heard the learned counsel for the petitioners/A.2 & A.1 and perused the record. There is no representation for the respondent-State.

2. This Criminal Petition, under Section 482 of Cr.P.C., is filed by the petitioners/A.2 & A.1, seeking to quash the criminal complaint in S.T.C.No.362/2006 on the file of III Metropolitan Magistrate, Cyberabad at L.B.Nagar, filed by the respondent-State for contravention of Sections 18(a)(i) r/w 17B, 16 and Second Schedule and 18(c), punishable under Sections 27(b), 27(c) & 27(d) of Drugs and Cosmetics Act, 1940 (for short 'the Act').

3. The learned counsel for the petitioners/A.2 & A.1 would submit that no ingredients of Section 27(c) of the Act have been made out against the petitioners/A.2 & A.1. There is no material to substantiate the same. However, the subject complaint was lodged by the respondent-State against the petitioners/A.2 & A.1. There are also no ingredients against the petitioners/A.2 & A.1 to constitute offence under Section 27(b) and 27(d) of the Act. It is also contended that the Court below erroneously took cognizance for the offence under Section 27(d) of the Act against the petitioners/A.2 & A.1. Section 17B of the Act relates to manufacturing of spurious drug and Section 27(c) of the Act prescribes punishment for manufacturing spurious drug. As per the Test Analysis Report, dated 30.09.2004, the collected sample of the subject drug is not of standard quality. There is no mention that the subject drug was found spurious. Hence, no case is made out against the petitioners/A.2 & A.1 for the offence punishable under Section 27(c) of the Act and ultimately, prayed to

quash the proceedings in the subject STC against the petitioners/A.2 & A.1.

4. As seen from the material placed on record, particularly the Test Analysis Report in Form-13 bearing report No.2914/DCL/2004 issued by the Government Analyst, Drugs Control Laboratory, Hyderabad, the sample collected was declared as 'not of standard quality', as the sample did not comply the labelled claim in respect of 'Thiamine Mononitrate' and the sample did not contain any Thiamine Mononitrate as to the labelled claim of 2.5mg/5ml. Whether the subject drug was of standard quality or not can only be determined after due trial by the Court concerned. Further, on examination by the Expert, it was found that there is shortfall of quantity of the drug. Thus, there is distinction between the quantity of drug prescribed on the label and the quantity of drug found in the sample bottle. In view of these facts and circumstances and the material placed on record, there are no justifiable grounds to accede to the contentions put forth on behalf of the petitioners/A.2 & A.1. The petitioners are required to undergo trial to find out whether they are guilty of the offences alleged against them or not. It is not a fit case to quash the proceedings against the petitioners/A.2 & A.1 in the subject STC. The Criminal Petition is devoid of merit and is liable to be dismissed.

5. Accordingly, the Criminal Petition is dismissed. It is made clear that the observations made supra shall not have any bearing on the determination of the subject STC by the Court below and the Court below shall determine the subject STC independently.

Miscellaneous Petitions pending, if any, shall stand closed.

Sd/-K.AMMAJI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The III Metropolitan Magistrate, Cyberabad, at L.B.Nagar.
2. Two CCs to the Public Prosecutor, High Court for the State of Telangana, Hyderabad (OUT)
3. One CC to Sri Rajasri Manche, Advocate (OPUC)
4. Two CD Copies

Kj.



HIGH COURT

DATED:05/03/2021



ORDER

CRLP.No.3811 of 2013

DISMISSING THE CRL.P.

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REMA
24/3/2021