

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71339 of 2018

Arising Out of PS. Case No.-1196 Year-2004 Thana- GOVERNMENT OFFICIAL COMP.
District- Saharsa

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Kal Sundaran Son of N. Iyer Subramanian, the then Managing Director of M/s Glaxo Smithkline Pharmaceuticals Limited, having its registered office at M/s 252, Dr. Annie Basant Road, Police Station- Worli, Mumbai- 400026, Maharashtra.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Shekhar
For the Opposite Party/s : Mr. Shyameshwar Dayal

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 15-12-2022 Heard learned counsel for the petitioner and learned
APP for the State.

The present application under Section 482 of the Code of the Criminal Procedure has been preferred for quashing of the order dated 08.10.2004 passed in Complaint Case No.1196 (C)/2004, whereby the learned Chief Judicial Magistrate, Saharsa has taken cognizance against all the eight accused including the present petitioner for the offences under Section 27 (d) of the Drugs and Cosmetics Act, 1940 and issued processes against them.

The allegation against the petitioner is that he in association of other co-accused is said to have manufactured,



distributed and sold misbranded drugs and thus violated the different provisions of Drugs and Cosmetics Rules, 1945.

It has been submitted on behalf of the petitioner that without going into the nature of allegations, it would be sufficient to say that the petitioner was the then Managing Director of the M/s Glaxo Smithkline Pharmaceuticals Limited and it was no part of his duty to look after the daily affairs of the Company. It is further submitted that there is no averment in the entire complaint that the petitioner was incharge of the company and hence, the prosecution against him should be dropped. It is lastly submitted that for the similar nature of the offence the cognizance order passed against one Deepak Parekh has been set aside by a co-ordinate Bench of this Court vide order dated 16.05.2016 passed in Cr. Misc. No.18449 of 2013.

Learned APP for the State vehemently opposed the prayer made on behalf of the petitioner.

Having regard to entire facts and circumstances of the case, the rival submissions of the parties and the provisions enshrined under Section 34 (1) of the Drugs and Cosmetics Act, this application is allowed and the proceedings including the order of cognizance dated 08.10.2004 passed in Complaint Case No.1196(C)/2004 passed by the learned Chief Judicial



Magistrate, Saharsa is hereby, set aside so far as the petitioner is concerned.

(Anjani Kumar Sharan, J)

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