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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 31.01.2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P.No.27960 of 2018
and
Crl.M.P.No.16230 of 2018

1. Omkar Medical Distributors Pvt.Ltd.,
Rep.by its Director R.Durai.

2. R.Durai ...Petitioners/Accused 1 & 2

Versus

State represented by
Drugs Inspector,
Mylapore Range/ Adyar Range i/c,
O/o.The Asst. Director of Drugs Control,
Zone III, DMS Campus, Teynampet,
Chennai-6.

... Respondent / Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C. to call for records in C.C.No.7937 of 2018 pending on the file of the learned IV Metropolitan Magistrate Court, Saidapet and quash the same.

For Petitioners : Mr.AR.L.Sundaresan,
Senior Counsel for
Mr.T.D.Selvan Babu

For Respondent : Mr.R.Kishore Kumar,
Government Advocate (Crl.Side)

O R D E R

This Criminal Original Petition has been filed to quash the private complaint filed against the petitioners in C.C.No.7937 of 2018 pending on the file of the learned IV Metropolitan Magistrate Court, Saidapet for the alleged offence under Section 18(c) of The Drugs and Cosmetics Act, 1940 read with Rule 65 of



the Drugs and Cosmetics Rules, 1945 and read with condition 3 (ii) of Form 20 B and condition No.4(ii) of Form 21 B punishable under Section 27(d) of the Act.

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2.The crux of the allegations made in the complaint is that the petitioners have sold the drugs to one M/s.Hannah Medicals, Adyar, Chennai-20, who was not holding a valid drug licence. According to the respondent, drug licence had expired based on the rental agreement dated 01.12.2014 on which date the change in constitution of the firm has happened. Hence, the complaint has been filed.

3.The learned Senior Counsel appearing for the petitioners submitted that M/s.Hannah Medicals, to whom the drugs have been sold by the petitioners had a valid licence till 31.12.2017. Merely because the rental agreement with the land lord is not extended by way of other documents, it cannot be said that the retailer has also forfeited the license issued under the Drugs and Cosmetics Act, 1940. He has further submitted that the entire prosecution is nothing but abuse of process of law.

4.Heard Mr.AR.L.Sundaresan, learned Senior Counsel appearing for the petitioners and Mr.R.Kishore Kumar, learned Government Advocate (Crl.Side) appearing for the respondent and also perused the materials available on record.

5.On a perusal of the records, it reveals that the main allegation against the petitioners is that the petitioners sold the drugs to one M/s.Hannah Medicals, who was not holding the valid drug licence. It is also relevant to note that the complaint itself is laid on the basis of certain complaints received from one of the partners of the medicals, who had sought for cancellation of the licence. The allegation in the complaint itself shows that as if the drugs were sold to the retailer who did not have licence. Form 21-C has also been produced along with the typed set of papers, which is not disputed by the State and the same itself shows that the license was valid from 01.01.2013 to 31.12.2017.

6.Therefore, the very allegation of the respondent Drug Inspector that the drugs were sold to a person, who did not have a valid license is not correct. In such view of the matter, the prosecution initiated against this petitioner is not maintainable.



7. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.7937 of 2018 pending before learned IV Metropolitan Magistrate, Saidapet is quashed. Consequently, the connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

ms/nsa

To

1. The IV Metropolitan Magistrate Court,
Saidapet, Chennai.
2. Do-Through,
The Chief Judicial Magistrate,
Egmore, Chennai.
3. The Public Prosecutor,
High Court, Madras.
4. The Drugs Inspector,
Mylapore Range/ Adyar Range i/c,
O/o.The Asst. Director of Drugs Control,
Zone III, DMS Campus, Teynampet,
Chennai-6.

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GMR(CO)
CT(23/02/2022)