

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

36 CRIMINAL APPLICATION NO.2033 OF 2021
M/S NATIONAL AYURVED, SHAMSHABAD PATTI, SIRSA,THROUGHITS PRO.
RAVI KUMAR GOYAL S/O RAJ KUMAR GOYAL
VERSUS
THE STATE OF MAHARASHTRA

Mr.N.S. Shah, Advocate for the applicant.

Mr.P.M. Kulkarni, APP for the respondent/State.

CORAM : KISHORE C. SANT, J.
DATED : 16.01.2023

PC :-

01. Heard learned Advocate for the applicant. All the while the arguments advanced are that the case is not made out under the Drugs and Cosmetics Act, 1940. It is submitted that the Inspector does not have *locus standi* to file complaint and that the Inspector is not qualified to lodge the complaint, as the product in this case is an Ayurvedic product manufactured under the Licence issued by the Department.

02. Learned APP pointed out that present case is not under the Drugs and Cosmetics Act, but is filed under the Drugs and Magic Remedies Act. Learned APP further points out that the applicant in this application had already approached this Court challenging the very same proceeding by filing Criminal Application No. 974 of 2021. Said application was disposed off by this Court on 29.06.2021 in view of the leave sought by the applicant.

03. Learned Advocate for the applicant today mentions that though

the application was withdrawn with liberty to seek appropriate remedy before the Trial Court, however, there is no remedy provided under the law before the Trial Court. Therefore, he has filed this application again.

04. This Court finds that this is totally a frivolous application, since on the date of withdrawing the application, legal position was same. Still submission was made before this Court that the applicant would seek appropriate remedy before the Trial Court. Though, now there is no change in the circumstances, the applicant has again tried to seek indulgence of this Court and has prayed for quashing of the proceedings which was earlier challenged in the earlier application. This attempt on the part of the applicant is totally against propriety and therefore application deserves to be dismissed with costs.

05. Learned Advocate for the applicant further tried to convince this Court by arguing that the earlier application was filed for quashing of the proceeding, however, this application is challenging the order of issuance of process. On the date of filing of the earlier application, the order under challenge was very much in force. The impugned order is dated 16.09.2017, whereas the earlier application was filed in the year 2021. Thus, the impugned order could have been challenged in earlier criminal application.

06. Though this Court initially expressed that this application deserves to be dismissed with costs of Rs.75,000/-, however, later-on the learned Advocate tendered an apology and prayed for leave to withdraw the

application. Considering the request, this Court finds that it would be proper to impose costs of Rs.10,000/- (Rupees Ten Thousand).

07. The application is thus allowed to be withdrawn subject to costs of Rs.10,000/- (Rupees Ten Thousand) to be deposited in the office of High Court Legal Services Sub-Committee, Aurangabad, within two weeks from today.

[KISHORE C. SANT, J.]