

Suspension IP. According to the Complainant, on test carried out by the Central Laboratory, it was found that the samples did not conform to the standards and, therefore, the complaint was lodged.

2. Learned Counsel for the Applicant made various submissions on merits of the matter and in particular on his right being defeated under section 25(3) and 25(4) of the said Act. He also submitted that the Applicant company has its Registered Office and Manufacturing Company outside the jurisdiction of the learned Magistrate. It is situated at Ranipur, Haridwar, Uttarakhand. He submitted that, therefore, the inquiry under Section 202 of Cr.P.C. was mandatory. In this case, it was not carried out.

3. As far as the merits of the matter is concerned, at this stage, it is not necessary to consider that issue and also the issue of violation of rights under Section 25(3) and 25(4) of the said Act. It is quite clear that the inquiry under Section 202 of Cr.P.C. was necessary.

4. Learned Counsel appearing for the Respondent Nos.1 and 2 agrees with these submissions of the learned Counsel for the Applicant that such inquiry under Section 202 of Cr.P.C. was mandatory. In view of this position, it is necessary to set aside the impugned order and remand the matter back before the learned Magistrate for taking further steps in accordance with law; and in particular in conformity with Section 202 of Cr.P.C.

5. Hence, the following order:

O R D E R

- i) The impugned order passed by the Metropolitan Magistrate, 15th Court, Mazgaon at Sewree, Mumbai issuing process against the Applicant in Case No.129/SW/2015, is set aside.
- ii) The case is remanded back before the learned Magistrate for fresh consideration and for taking steps under Section 202 of Cr.P.C. and to take further steps in accordance with law, if necessary.

iii) It is made clear that this Court has not expressed any opinion on any of the other submissions made by the learned Counsel for the Applicant.

iv) With these observations, the Application is disposed of.

(SARANG V. KOTWAL, J.)