



Crl.R.C. No.1411 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 05.09.2023

DELIVERED ON : 19.09.2023

CORAM :

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

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1. M/s. Kniss Laboratories Pvt. Ltd.
Represented by M.D. Varadarajan
Managing Director
Plot No.9, Multe Industrial Estate
Gerugambakkam (Porur-Kundrathur Road)
Chennai 600 122

2. M.D. Varadarajan

...Petitioners

Vs.

The Investigating Officer
Central Bureau of Narcotics
Preventive & Intelligence Cell
3rd Floor, B-Wing, Shastri Bhavan
Nungambakkam, Chennai

...Respondent

Prayer : Criminal Revision Case filed under Section 397(1) r/w 401 Cr.P.C. against the order dated 30.01.2023 in Crl.M.P.No.349 of 2018 in C.C. No.02 of 2018 on the file of the Principal Sessions Judge, Principal Special Court under EC & NDPS Act, Chennai.



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For Petitioners : Mr. S.R. Rajagopal, Senior Counsel
Assisted by Mr. V. Ramesh
For Respondent : Mr. N.P. Kumar,
Special Public Prosecutor.

ORDER

Challenge in this Criminal Revision is made to the orders dated 30.01.2023 in Crl.M.P.No.349 of 2018 in C.C. No.02 of 2018 on the file of the Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai.

2. The revision petitioner filed the Criminal Miscellaneous Petition in Crl.M.P. No.349 of 2018 under Section 227 Cr.P.C. praying to discharge them from the offences punishable under Sections 8(c) r/w 22(c), 29 and 38 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short NDPS Act). The said petition was dismissed by the Trial Court Judge on the ground that there are sufficient materials against the revision petitioners/accused for proceeding further in the case and all the averments made in the petition can only be considered at the time of trial.



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3. The case of the respondent/prosecution in a nutshell is as follows:

3.1. On the basis of the intelligence inputs gathered by Mr.Murali Krishna, Inspector, Central Bureau of Narcotics, Chennai, a team consisting of the Superintendent (Preventive) and 3 other Inspectors of Central Bureau of Narcotics along with two independent witnesses went to M/s. Kniss Laboratories Pvt. Ltd. at Plot No.9, Multi Industrial Estate, Gerugambakkam (Porur-Kundrathur Road), Chennai 600 122, and found that the revision petitioners/accused in possession of the following items.

SI. No.	Name of bulk raw material & Tablet	Batch No.	Each Tablets containing in mg.	Quantity of tablets	No. of bags cartoons
1.	Alprazolam	APZ-131008	Bulk raw material	527 grams	527 grams Alprazolam packed in one polythene bag again packed in a silver coloured bag put it in a steel cylindrical box.



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Sl. No.	Name of bulk raw material & Tablet	Batch No.	Each Tablets containing in mg.	Quantity of tablets	No. of bags cartoons
2.	Alprazolam tables (Restolam Brand)	DRTTB 601	0.5 mg/tablet	8 boxes containing 98100 tablets	1 Box = 132 x 10x 10 tabs 6 boxes = 126 x 10 x 10 tabs each 1 box = 93 x 10 x 10 loose strips
3.	Alprazolam tables (Restolam Brand)	DRTTA 601	0.25 mg / tablet	48600 tablets	2 boxes containing 225 x 10 x 10 each and 1 box containing 36 x 10 x 10 loose blister strips of tablets
4.	Alprazolam tables (Anxer Brand)	DANTA 601	0.25 mg / tablet	4.370 kgs loose tablets	One polythene bag containing 4.370 kgs tablets
5.	Alprazolam tables (Anxer Brand)	DANTB 601	0.5 mg / tablet	4.370 kgs loose tablets	One polythene bag containing 4.370 kgs tablets

This is much above the prescribed commercial quantity, without getting registered with the Narcotic Commissioner, Central Bureau of Narcotics, Gwalior as mandated under Rule 65 of the NDPS Rules, 2015, amended by Government of India, Ministry of Finance, Department of Revenue, New Delhi, vide Gazette Notification G.S.R.224(E), dated 25.03.2015



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and thus committed offences under Sections 8(c) r/w 22(c), 29 and 38 of the NDPS Act, 1985. Accordingly the Investigating Officer seized 25.203 kgs of Alprazolam after following necessary procedures mandated under NDPS Act.

3.2. After concluding investigation a final report in C.C.No.02/2018 was filed before the Principal Special Judge under EC & NDPS Act, Chennai, against the revision petitioners/accused for the offences punishable under Sections 8(c) r/w 22(c), 29 and 38 of NDPS Act. Both the accused filed a petition under Section 227 Cr.P.C. for discharging them from the offences on the ground that they were not aware of Rule 65 of NDPS (second Amendment) Rules, 2015 and that they had licence under Drugs and Cosmetics Act, 1940, to manufacture Psychotropic substances including Alprazolam tablets.. It is also their submission that they are innocent and therefore, the charges made against them are baseless. These contentions of the accused were not accepted by the Trial Court Judge and ultimately their petition under Section 227 Cr.P.C. was dismissed, aggrieved over which, the present Criminal Revision Case is filed.



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4. Mr.S.R. Rajagopal, learned Senior Counsel, assisted by Mr.V. Ramesh, learned counsel for the petitioners contended that the revision petitioners were not aware of the Rule 65 of NDPS (second Amendment) Rules, 2015 and the notification issued by Ministry of Finance, Department of Revenue, New Delhi Gazette Notification G.S.R.224(E), dated 25.03.2015 under NDPS Act 1985. He would contend that when the Rule 65 of NDPS Rules does not provide any penal provision for not registering with the Narcotic Commissioner for manufacturing of psychotropic substances, mere possession of Alprazolam tablets by the petitioners cannot be said to be illegal especially when they already possess licence to manufacture the same under Drugs and Cosmetics Act, 1940. His further contention is that immediately after coming to know of the said Rule, the revision petitioners have got the registration done with Narcotic Commissioner as mandated under Rule 65 of NDPS Rules.

5. Per contra, Mr. N.P. Kumar, learned Special Public Prosecutor appearing for the respondent contended that Section 80 of the

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NDPS Act, 1985, provides that the provisions to NDPS Act as amended in 2015 is in addition to the Drugs and Cosmetics Act 1940 and that all the manufacturers of Psychotropic substances were put to notice with regard to the amended Rules and the contention of the revision petitioners that they were not aware of Rule 65 of NDPS (second Amendment) Rules, 2015, cannot be accepted, as ignorance of law cannot be an excuse. In the counter filed by the counsel for the respondent it is stated thus:

"It is submitted that the contention that the amended G.O. in the Gazette Notification was not circulated widely is incorrect. In exercise of the powers conferred by Section 9 read with Section 76 of the NDPS Act, 1985, the Central Government has made amendment in Narcotics Drugs and Psychotropic Substances (second Amendment) Rules 1985 vide Ministry of Finance, Department of Revenue, New Delhi Notification G.S.R. 224(E) dated 25th March, 2016. Accordingly, as mandated under Rule 65 of the NDPS (Second Amendment) Rules, 2015, a person who has issued license to manufacture one or more psychotropic substances shall register with the Narcotics Commissioner for each of the substance and shall file quarterly return with



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the Narcotics Commissioner and requirement of registration under this sub-rule shall be complied within a period of 180 days from the date of issuance of this notification i.e., from 25th March, 2015. Indian Drugs Manufacturers Association (IDMA) Bulletin dated 8th to 14th April, 2015 in Vol. No.46 published the Government of India Gazette Notification G.S.R.224 (E) dated 25th March, 2015 where the new amendment of NDPS Rules, 1985 (Second Amendment of 2015) have been published. The said notification was also uploaded on the website www.drugs.control.org of Tamil Nadu Drug Control Department and also on the website www.cbn.nic.in of Central Bureau of Narcotics, Gwalior. Workshops were also conducted at CBN Headquarters, Gwalior. Thus the above mentioned Gazette Notification was widely circulated in various forums/agencies. Despite being a member of the Indian Drug Manufacturers Association of Tamil Nadu (PMAT) the plea of the petitioner that he was unaware of the amended NDPS Rules cannot be considered as a valid excuse.

F. It is submitted that as stated above, all manufacturers were put to notice and Notification was circulated widely. In the manufacture of preparations / medicines containing



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psychotropic substances the manufacturers are bound to strictly follow the provisions of NDPS Act/Rules, 1985 in additions to the provisions containing Drugs and Cosmetics Act."

6. It is clear that in the year 2015, in exercise of powers conferred by Section 9 read with Section 76 of NDPS Act, 1985, the Central Government has made amendments in Narcotic Drugs and Psychotropic Substances (second Amendment) Rules, 1985, vide Ministry of Finance, Department of Revenue Notification and notified the same in Gazette in G.S.R.224 (E) dated 25.03.2015. Under Rule 65 of NDPS (second Amendment) Rules, a manufacturer/person who has been issued with a licence to manufacture one or more psychotropic substance shall register with the Narcotics Commissioner and it should be done within 180 days from the date of issuance of notification i.e, 25.03.2015. It is appropriate to extract amended Rules 65 and 66 of NDPS Act.

65. Registration and submission of returns'-



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(1) A person who has been issued licence to manufacture one or more psychotropic substances shall register with the Narcotics Commissioner for each of the substances in the form and manner as may be specified by the Narcotics Commissioner:

Provided that the requirement of registration under this sub-rule shall be complied within a period of one hundred and eighty days from the date of coming into force of these rules.

(2) A person who has registered with the Narcotics Commissioner under sub-rule (1) shall file quarterly return with the Narcotics Commissioner in such form and manner as may be specified by the Narcotics Commissioner.

(3) The return for a quarter shall be filed before the last day of the month following that quarter.

(4) If the return for a quarter is not filed before the due date by a person registered under sub-rule (1), the Narcotics Commissioner may issue notice to "explain the reasons thereof and after considering the reasons submitted, if any, may pass orders for revoking the registration.

(5) The registration under sub-rule (1) shall be deemed to be revoked, if the quarterly return for three successive quarters is not filed.



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(6) An appeal against an order passed under sub-rule (4) may be made to the Secretary, Government of India, Ministry of Finance, Department of Revenue or any other officer, not below the rank of Additional Secretary to the Government of India, authorized by him in this behalf, within thirty days from the date of communication of such order.

(7) Every memorandum of appeal shall be accompanied by a copy of the order appealed against.

(8) The Appellate Authority shall, after making such further inquiry as may be considered necessary, pass such orders as it thinks fit, confirming, modifying or annulling the order appealed against.

Explanation.-For the purposes of this rule, the expression "quarter" shall be January to March, April to June, July to September and October to December of every year.

65A. Sale, purchase, consumption or use of psychotropic substances.- No person shall sell, purchase, consume or use any psychotropic substance except in accordance with the Drugs and Cosmetics Rules, 1945:

Provided that sale, purchase, consumption or use of a psychotropic substance specified in Schedule I shall be only for the purposes



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mentioned in Chapter VIIA.I

66. Possession, etc., of psychotropic substances.-

(1) No person shall possess any psychotropic substance for any of the purposes covered under 1945 rules, unless he is lawfully authorized to possess such substance for any of the said purposes under these rules: Provided that possession of a psychotropic substance specified in Schedule I shall be only for the purposes mentioned in chapter VIIA.

(2) Notwithstanding anything contained in sub-rule (1), any research institution or a hospital or dispensary maintained or supported by Government or local body or by charity or voluntary subscription, which is not authorised to possess any psychotropic substance under the 1945 Rules, or any Person who is not so authorised under the 1945 Rules, may Possess a reasonable quantity of such substance as may be necessary for drier genuine scientific requirements or genuine medical requirements, or both for such period as is deemed necessary by the said research institution or, as the case may be, the said hospital or dispensary or person;

Provided that where such psychotropic substance is in possession of an individual for his personal medical use the quantity thereof shall



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not exceed one hundred dosage units at a time.

(3) The research institution, hospital and dispensary referred to in sub-rule (2) shall maintain proper accounts and records in relation to the purchase and consumption of the psychotropic substance in their possession.

Thus, after May 2015, registration with Narcotic Commissioner to keep the composition containing psychotropic substances is made compulsory and for the convenience of the persons/traders already dealing in such psychotropic substances, 6 months time was granted. The Investigation Officer conducted a raid in the revision petitioners' premises in the year 2016 and found them in possession of 25.203 Kgs of 'Alprazolam'. Thus it is clear that the revision petitioners have not followed Rule 65 of NDPS (second Amendment) Rules, 1985. The learned Senior Counsel's contention is that since the revision petitioners had a licence to manufacture Alprazolam under the Drugs and Cosmetics Act, 1940, they had every right to possess Alprazolam and their mere possession cannot be said to be in contravention of NDPS Act. This argument cannot be



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accepted for the simple reason that as per Section 8(c) of NDPS Act, no person could produce, manufacture, possess, sell, purchase, transport, warehouse, use, consume, import inter-State, export inter-State, import into India, export from India or tranship any narcotic drug or psychotropic substance **except for medical or scientific purpose and in the manner and to the extent provided by the provisions of this Act or the rules or orders made thereunder and in a case where any such provision, imposes any requirement by way of licence, permit or authorisation also in accordance with the terms and conditions of such licence, permit or authorisation from the date of enforcement of the NDPS (amendment) Rules, 1985.** In the instance case the revision petitioners were found in possession of Alprozolam in the year 2016 i.e, after the expiry of 180 days from the date of enforcement of the Narcotic Drugs and Psychotropic Substances (second Amendment) Rules, 1985. As rightly contended by the learned counsel for the respondent ignorance of law is not an excuse. In view of the above discussions, I do not see any reason to interfere with the findings recorded by the trial court.



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7. In the result,

- i. the Criminal Revision Case is dismissed.
- ii. the orders dated 30.01.2023 in Crl.M.P.No.349 of 2018 in C.C. No.02 of 2018 on the file of the Principal Sessions Judge, Principal Special Court under EC & NDPS Act, Chennai, is confirmed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
bga

To

1. The Investigating Officer
Central Bureau of Narcotics

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Preventive & Intelligence Cell
3rd Floor, B-Wing, Shastri Bhavan
Nungambakkam, Chennai

2. The Principal Sessions Judge,
Principal Special Court under EC & NDPS Act, Chennai.



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R. HEMALATHA, J.
bga

To

The Judicial Magistrate, Tiruttani

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