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Crl.O.P.Nos.22344 & 34768 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.Nos.22344 and 34768 of 2019

and

Crl.M.P.Nos.11600 and 19258 of 2019

1. Anil Kapoor
2. Alka Kapoor

...Petitioners (A3 & A4) in Crl.O.P.No.22344 of 2019

1. Arun Kumar
2. Chirag Kapoor

...Petitioners (A2 & A5) in Crl.O.P.No.34768 of 2019

-Vs-

1. The State represented by:
The Drugs Inspector,
Ambattur – I Range,
O/o. the Assistant Director of Drugs Control Zone IV,
Chennai - 600 006.

... Respondents in both Crl.O.Ps

Common Prayer: These Criminal Original petitions filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the proceedings in C.C.No.21 of 2018 on the file of the Chief Judicial Magistrate, Tiruvallur and to quash the same.



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For Petitioners	: Mr. P. Ramesh Kumar (in Crl.O.P.No.22344 of 2019)
For Petitioners	: No Appearance (in Crl.O.P.No.6086 of 2021)
For Respondent	: Mr. A. Damodaran, Additional Public Prosecutor (in both Crl. O.Ps)

COMMON ORDER

These Criminal Original Petitions have been filed seeking to quash the impugned final report in C.C.No.21 of 2018 on the file of the Chief Judicial Magistrate, Thiruvallur.

2.It is alleged in the final report that the first accused namely, M/s. Maxchem Pharmaceuticals Private Limited, were in possession of drugs which were found to be not of standard quality. Hence, the complaint.

3.The learned counsel for the petitioners would submit that the respondent had not sent the sample to the Central Laboratory as requested by the accused and hence, they have violated Section 25(4) of



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the Drugs and Cosmetics Act, 1940. The learned counsel would further submit that the third and fourth accused who are the petitioners in Crl.O.P.No.22344 of 2019 are aged parents of the 2nd accused. Even as per the complaint, the 2nd accused was the person in-charge and authorized signatory of the first accused company; that there are no allegations as against the third and fourth accused that they were in-charge and responsible for the conduct of the first accused company. Hence, he prayed for quashing of the impugned final report.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that the respondent had complied with the statutory provisions and in fact, the samples was sent to the Central Laboratory and a report was given by them on 25.05.2018 which also confirms with the report of the State Laboratory. The learned Additional Public Prosecutor further submitted that the other contentions raised by the learned counsel for the petitioners are factual in nature and has to be adjudicated only before the Trial Court. Hence, he prayed for the dismissal of the quash petition.



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5.This Court finds that, in view of the counter filed by the respondent that the sample was sent to the Central Laboratory and the report has been obtained from them, the points raised by the petitioners that there was a delay in sending the sample and therefore, prejudice was caused to the petitioners have to be adjudicated only before the Trial Court. Hence, this Court is not inclined to entertain Crl.O.P.No.34768 of 2019.

6.However, this Court finds that the petitioners in Crl.O.P.No.22344 of 2019 are aged parents of the second accused. It is also informed that the first petitioner / A3 in Crl.O.P.No.22344 of 2019 is suffering from kidney failure and had undergone kidney transplantation and the second petitioner / A4 was the donor of kidney to the first petitioner. This court further finds that there are no allegations in the impugned final report to the effect that they were in-charge of and responsible to the first accused company for the conduct of its business.



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(i) Crl.O.P.No.22344 of 2019 deserves to be allowed and the impugned proceedings as against A3 and A4 are alone quashed.

(ii) Crl.O.P.No.34766 of 2019 is liable to be dismissed and this Court is not inclined to entertain the quash petition insofar as the other accused persons are concerned.

(iii) Consequently, connected Criminal Miscellaneous Petitions are closed.

8.The learned Judicial Magistrate, Thiruvallur, may conclude the trial in respect of other accused within a period of six months from the date of receipt of a copy of this order.

05.06.2023

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Index : Yes / No

Speaking : Yes / No

Neutral Citation : Yes / No



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- 1.The Drugs Inspector,
Ambattur – I Range,
O/o. the Assistant Director of Drugs Control Zone IV,
Chennai - 600 006.
- 2.The Chief Judicial Magistrate, Thiruvallur.
- 3.The Public Prosecutor,
High Court of Madras.



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