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Crl OP No.23856 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.23856 of 2021

and

Crl.M.P.Nos.13152 & 13153 of 2021

P. Srinivas

... Petitioner / A2

Versus

The State of Tamil Nadu Rep. by the
Drugs Inspector,
Royapettah Range (i/c),
O/o. The Assistant Director of Drugs Control,
Zone – III, D.M.S Campus,
259-261, Anna Salai,
Teynampet, Chennai – 600 006.

... Respondent / Complainant

Prayer: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in C.C.No.2229 of 2021 on the file of the learned IV Metropolitan Magistrate, Saidapet, Chennai - 15 and to quash the same.

For Petitioner : Mr. M. Mohameed Rafi

For Respondent : Mr. A. Damodaran,
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition has been filed seeking to quash the impugned proceedings in C.C.No.2229 of 2021 on the file of the IV Metropolitan Magistrate, Saidapet, Chennai, filed for the alleged offences under Section 18(c) of the Drugs and Cosmetics Act, 1945 punishable Section 27(d) of the Act.

2.It is alleged in the complaint that the 1st accused company was guilty of violations under the Drugs and Cosmetics Act; that the sales of the drugs were not effected under the personal supervision of a registered pharmacist; that the prescription register was not maintained properly; and that the address of the prescriber was not recorded in the said register and hence, the 1st accused company was liable for the aforesaid offences.

3.The learned counsel for the petitioner submitted that the petitioner is arrayed as A2 in the impugned complaint and he was the Director in the 1st accused company. However, there is no allegation that he was in-charge and responsible to the 1st accused company for the conduct of its business, though there is such an allegation in respect of



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the other directors sought to be prosecuted. Hence, he prayed for quashing of the impugned proceedings.

4.The learned Additional Public Prosecutor submits that since the petitioner is a Director, it is for him to establish before the trial Court that he was not in-charge and responsible to the 1st accused company for the conduct of its business. Hence, he prayed for dismissal of the quash petition.

5.Admittedly, the offences have been committed by the 1st accused company. It is also an admitted fact that the petitioner is a Director of the company. Section 34 of the Drugs and Cosmetics Act, provides for prosecuting persons in-charge and responsible to the company for the conduct of its business, as also persons with whose consent or connivance etc., the offence has been committed by the company. In the instant case, it is seen that there is absolutely no allegation in the impugned complaint as against the petitioner except for stating that he is the Director of the 1st accused company. Necessary averments to invoke Section 34 of the Drugs and Cosmetics Act, to make the petitioner vicariously liable is absent in the instant case. Therefore,



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the impugned proceedings in C.C.No.2229 of 2021 on the file of the IV Metropolitan Magistrate, Saidapet, Chennai, is quashed as against the petitioner alone.

6.Accordingly, this Criminal Original Petition is allowed.

Consequently, connected Criminal Miscellaneous Petitions are closed.

27.06.2023

smv

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

- 1.The Drugs Inspector,
Royapettah Range (i/c),
O/o. The Assistant Director of Drugs Control,
Zone – III, D.M.S Campus,
259-261, Anna Salai,
Teynampet, Chennai – 600 006.
- 2.The IV Metropolitan Magistrate, Saidapet, Chennai.
- 3.The Public Prosecutor
High Court of Madras.



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SUNDER MOHAN, J

smv

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