



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No. 32558 of 2019

And

Crl.M.P.Nos. 17926 & 17927 of 2019

1. M/s. Jackson Laboratories Pvt. Ltd.,
Through its Managing Director
Shri. Jugal Kishore
S/o. Shri. Chaman Lal
Factory at No.22-24, Majtha Road,
Bye-Pass, Amrister – 143 001.
2. Shri Jugal Kishore
S/o. Shri. Chaman Lal
Factory at No.22-24, Majtha Road,
Bye-Pass, Amrister – 143 001.
Residential address at
No.13, Joshi Colony the Mall,
Amritsar-1,
Amritsar, Punjab – 143 001. ... Petitioners/Accused

Vs

1. Union of India
Rep. By its Drugs Inspector
Dr.S.Gopinath
Office of the Deputy Drugs Controller (India)
Central Drugs Standard Control Organization
South Zone, 2nd Floor,
Shastri Bhawan Annex
Chennai – 600 006. ...Respondent/Complainant



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2. The Managing Director
Tamil Nadu Medical Services Corporation Ltd.,
No.147, II Floor, Pantheon Road,
Egmore, Chennai – 600 008. Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the entire records concerned in C.C.No. 10883 of 2018 on the file of the IV Metropolitan Magistrate, Saidapet, Chennai and quash the same in so far as the petitioners are concerned.

For Petitioners : Mr.C.Prakasam

For 1st Respondent : Mr. P.Ayya Samy
Central Government Standing Council

For 2nd Respondent : Mr. Shivakumar & Suresh

ORDER

This Petition is to quash the private complaint for the offences under Section 17-B and 18(a)(i) read with Section 16 and Section 27(c) and 27(d) of Drugs and Cosmetics Act, 1940.

2. It is alleged in the complaint that certain sample of the drugs were drawn from the premises of the second respondent herein and were found not of standard quality and spurious. The said drugs is said to have been manufactured by the petitioners herein.



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3. The learned counsel for the petitioners would submit that as per the agreement between the petitioners and the second respondent, the second respondent agreed to take delivery of the goods only if the drugs were found to be the standard quality. In the instant case, the second respondent had taken delivery of the goods after satisfying themselves that it was of standard quality. The learned counsel would further submit that the petitioners have specifically sent a letter to the second respondent to maintain the drugs at a temperature below 30 C and also to be packed in a glass bottle. The learned counsel further submitted that the second respondent did not adhere to the instructions therefore, it cannot be said that the petitioners had supplied spurious drugs.

4. The learned counsel for the first respondent/complainant would submit that the question as to whether the petitioners supplied misbranded or good quality drugs or whether the second respondent had not kept it in a proper manner has to be adjudicated only during trial and cannot be decided in a quash petition.



5. The learned counsel for the second respondent would submit that it is not sufficient that the drugs should be of standard quality when they were supplied to the second respondent and the quality has to remain the same till its expiry. The learned counsel also read to us the clauses in the agreement which say that the drugs shall be periodically inspected to ascertain if it is of standard quality or not. The learned counsel further submitted that the claim of the petitioner that the second respondent did not store the drugs properly is wrong.

6. This Court on perusal of the complaint and on hearing the learned counsels on either side finds that the points raised by the petitioners have to be adjudicated only before the trial Court. This Court cannot adjudicate whether the drugs supplied by the petitioners were of standard quality at the time when they delivered it to the second respondent or whether it was the second respondent, who had not stored the medicine properly. Hence, this Court is not inclined to entertain the quash petition. However, the petitioners are at liberty to raise all points before the trial Court.



7. In view of the above, this Criminal Original Petition is dismissed.

Consequently, CrI.M.P.No. 17927 of 2019 is allowed and CrI.M.P.No. 17926 of 2019 is closed.

8. It is submitted by the learned counsel for the petitioners that the accused are from Punjab and that their appearance before the trial Court on a regular basis would cause hardship to them. In view of the same, the appearance of the petitioners before the trial Court is dispensed with unless the learned Magistrate considers their appearance necessary for the progress of the trial.

03.04.2023

vsg

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

IV Metropolitan Magistrate, Saidapet, Chennai.



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SUNDER MOHAN. J.

vsg

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