



Crl.O.P.No.24213 of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:01.10.2024

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.24213 of 2024

1.M/s Kniss Laboratories Pvt.Ltd.(A1)
Plot No.9, Multe Industrial Estate,
Gerugambakkam (Porur-Kundrathur Road),
Chennai 600 122,
Represented by M.D.Varadarajan, Managing Director)

2.M.D.Varadarajan(A2)
Managing Director of M/s Kniss Laboratories Pvt.Ltd.
Plot No.9, Multe Industrial Estate,
Gerugambakkam (Porur-Kundrathur Road),
Chennai 600 122. .. Petitioners/Accused 1 and 2

/versus/

The State of Tamil Nadu
Represented by Tambaram-II Range,
O/o The Assistant Director of Drugs Control,
Kancheepuram Zone, D.M.S.Campus,
259-251, Anna Salai, Teynampet,
Chennai 600 006. .. Respondent/Complainant



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Criminal Original Petition has been filed under Section 528 of BNSS, 2023, to call for the entire records of the C.C.No.439 of 2022 on the file of Chief Metropolitan Magistrate, Chengalpattu and quash the same.

For Petitioners :Mr.R.Karthikeyan

For Respondent :Mr.K.M.D.Muhilan
Govt.Advocate (Crl.Side)

ORDER

It is the case where the sample collected from the accused company sent to the State Laboratory as well as the Central Laboratory given conflicting report and the report of the Central Laboratory is in favour of the accused. Unfortunately, in this case before the report from the Central Laboratory could be reached before the Court, the complainant has filed the complaint under Section 200 of Cr.P.C., for contravention under Section 18(a)(i) r/w Section 17B(d) punishable under Section 27(c) of Drugs and Cosmetics Act, 1940.

2.The learned Additional Public Prosecutor had fairly reported



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to the Magistrate by way of a memo stating that the analysis report received from the Central Drugs Laboratory, Kolkata reveals that the sample confirms with the manufacturing specification with respect to Sodium Picosulphate and also explicitly stated that the report of the Central Drugs Laboratory, Kolkata will be conclusive evidence, as per Section 25(4) of the Drugs and Cosmetics Act and therefore, to pass suitable orders, based on the report of the Director in-charge, Central Drugs Laboratory, Kolkata dated 13.10.2021. This memo signed on 22.09.2023. However, till date, no order was passed by the Chief Judicial Magistrate, Chengalpattu.

3. Taking note of the report of the Central Laboratory and the memo filed by the learned Additional Public Prosecutor, to apply Section 25(4) of the Drugs and Cosmetics Act and pass orders, the learned counsel appearing for the petitioners submitted that since the Chief Judicial Magistrate has not acted on the memo of the Additional Public Prosecutor and the report of the Central Laboratory, it is appropriate for the High Court to exercise the superintendent power over the



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Subordinate Courts as well as inherent power conferred under Section 528 of BNSS to quash the case pending against the petitioners in C.C.No.439 of 2022.

4. This Court has no second opinion whenever there is a miscarriage of justice or to meet the ends of justice, Court shall exercise the superintendent power and inherent power conferred under Constitution and Code. However, the trial Court is expected to apply its mind and pass orders, when specific facts placed before it. Failure to decide upon the memo and protracting the matter unreasonably is deplorable. The officer concern need to put notice about his failure to discharge the function.

5. Therefore, instead of exercising the inherent power under the Code, it is appropriate to direct the Chief Judicial Magistrate, Chengalpet to consider the memo filed by the Additional Public Prosecutor, the report of the Central Laboratory, Kolkata, dated 13.10.2021 and Section 25(4) of the Drugs and Cosmetics Act 1940 and



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pass order in accordance with law within 30 days from the date of receipt of the order. The personal appearance of the petitioners is dispensed till the disposal of the memo of the Additional Public Prosecutor. Accordingly, this Criminal Original Petition is disposed of.

01.10.2024

Index:Yes/No

Internet:Yes/No

Neutral Citation:Yes/no

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To:

1.The State of Tamil Nadu represented by Tambaram-II Range,
O/o The Assistant Director of Drugs Control, Kancheepuram Zone,
D.M.S.Campus, 259-251, Anna Salai, Teynampet, Chennai 600 006.

2. The Chief Metropolitan Magistrate, Chengalpattu.

3.The Public Prosecutor, High Court, Madras.



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Dr.G. JAYACHANDRAN,J.

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