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Crl.O.P.No.29382 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.29382 of 2024 and
Crl.M.P.Nos.16464 and 16466 of 2024

1. Anand Arjun Odedra

Director

M/s.Biocare Remedies Private Limited

707, GIDC Engg. Estate, Sector-28, Gandhinagar

Gujarat - 382028

2. Minaxi Arjun Odedra

Director

M/s.Biocare Remedies Private Limited

707, GIDC Engg. Estate, Sector-28, Gandhinagar

Gujarat - 382028

... Petitioners

Vs.

The State of Tamilnadu

Represented by Drugs Inspector

Sholinganallur Range

O/o The Asst. Director of Drugs Control

Kanchipuram Zone, Chennai - 600 006

... Respondents



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Prayer: Criminal Original Petition filed under Section 528 of B.N.S.S. to call for the records in C.C.No.489 of 2022 now pending on the file of the learned Chief Judicial Magistrate at Chengalpattu and quash the same.

For Petitioner : Mr.Praveen Alexander
For Respondent : Mr.S.Sugendran
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the case in C.C.No.489 of 2022 now pending on the file of the Chief Judicial Magistrate Court at Chengalpattu.

2. The case of the petitioner is that the respondent filed a charge sheet before the Chief Judicial Magistrate, Chengalpattu, in C.C.No.489 of 2022, against the petitioners and two others for the offence under Sections 18(a)(i) of the Drugs and Cosmetics Act, 1940 alleging that the Drugs which were manufactured, stocked and sold were not of standard quality, which is punishable under Section 27(d) of the said Act. According to the petitioners,



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the petitioners were inducted in the A1-Company only as formal Directors and that they have never been involved in the operations of the A1/Company.

Further, at the relevant point of time, the first petitioner was pursuing his MBA at XLRI, Jamshedpur and after completion of his studies, he was employed in HSBC Bank in Mumbai from 18.05.2015 onwards and was residing in Mumbai with his mother/the second petitioner herein and that they are nothing to do with the day to day affairs of the A1-Company. Hence, the present petition is filed to quash the charge sheet against the petitioners.

3. When the matter came up for hearing on 25.11.2024, this Court called for records from the Chief Judicial Magistrate Court at Chengalpattu and the same is also received.

4. A perusal of the records shows that, initially the case was registered as C.C.No.74 of 2018, before the Chief Judicial Magistrate Court, Chengalpattu. The learned Chief Judicial Magistrate, by proceedings dated 29.07.2021, held that the offence punishable under Section 27(3) should be tried only by the



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Court of Sessions and thereby, ordered to close the C.C.No.74 of 2018 assigned

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to this case and committed the case to the Sessions Court by directing the Magistrate Clerk to assign the new PRC Number. For better appreciation, the said order is reproduced hereunder:-

"The case was taken on file on 11.07.2018 as C.C.No.74 of 2018 by this Court. Admittedly, this court is not a special court constituted under Section 36 AB and this Court is only a designated court to deal with the complaint filed by the Drugs Inspector, as a Judicial Magistrate of First class for the entire district. So, this court has to act as a trial court as well as committal court. the Drugs Inspector produced an authority of Hon'ble High Court of Kerala at Ernakulam in Crl.R.C.No.54 of 2017 dated 30.10.2019. But as held by our Hon'ble High Court of Madras in M/s.Venkateswara Hatcheries Private Limited -Vs- State in Crl.O.P.No.14745 of 2014 dated 28.09.2018, as provided u/s.32(2) of Drugs and Cosmetics Act 1940. The offences punishable u/s.27(d) should be tried only by the Court of



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Sessions. Hence, as provided u/s.323 of Cr.P.C. this case has to be committed to Hon'ble Court of Sessions. Accordingly the C.C.No.74/2018 assigned to this case is ordered to be closed and the Magistrate Clerk is directed to assign the new PRC Number. For further proceedings call on 06.08.2021."

5. However, subsequently, as the cases committed to the Principal District and Sessions Court, Chengalpattu were returned stating that numbering of the complaint as PRC is not correct in view of Section 36-A of the Drugs and Cosmetics Act, 1940, the learned Chief Judicial Magistrate again ordered the case to be converted as a calendar case, vide proceedings dated 23.06.2022. Subsequent to the said proceedings, the case was taken on file by the learned Chief Judicial Magistrate as C.C.No.489 of 2022. For better appreciation, the said order is reproduced hereunder:-

"The cases committed to the Hon'ble Principal District and Sessions Court, Chengalpattu by this Court



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was already returned stating that numbering of the complaint as PRC is not correct in view of Section 36-A of Drugs and Cosmetics Act 1940 and the Principal District and Sessions Court, Chengalpattu has no jurisdiction to take cognisance of the committal proceedings with a direction to act accordingly. In view of the above return order, this case is ordered to be converted as Calender Case. For appearance of the accused and further proceedings posted on 01.07.2022."

6. Now the case is pending in C.C.No.489 of 2022. A perusal of the statements recorded from the witnesses shows prima facie materials against the petitioners. Therefore, the petitioners are not entitled to the relief sought for. The grounds taken by the petitioners are matter for trial.

7. The learned Chief Judicial Magistrate, Chengalpattu is directed to expedite the trial and dispose of the case in C.C.No.489 of 2022 in accordance with law, as expeditiously as possible. The parties are directed to extend their



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fullest co-operation to the learned Chief Judicial Magistrate so as to enable him
to dispose of the case.

8. With the above directions, this Criminal Original Petition is
dismissed. Consequently, connected Miscellaneous Petitions are closed.

11.12.2024

Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes/No
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Note: Issue order copy on 12.12.2024.

To

1. The Drugs Inspector
Sholinganallur Range
O/o The Asst. Director of Drugs Control
Kanchipuram Zone, Chennai - 600 006

2. The Public Prosecutor
High Court of Madras



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P.VELMURUGAN. J.

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