



Crl.O.P.(MD) No.485 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.03.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.485 of 2024

and

Crl.M.P.(MD) Nos.298 and 299 of 2024

1.M/S.Medplus Pharmacy (A-1),
Uniot of Optival Health Solutions Pvt.Ltd.,
Ground Floor, No.1A, Ashok Nagar, 2nd Street,
Paalamedu High Road,
Koodal Nagar,
Madurai -18,
represented by its Whole Time Director,
Thiru.C.Bhaskar Reddy

2.C.Bhaskar Reddy

...Petitioners

VS

The Drug Inspector,
Usilampatti Range,
Office of the Assistant Director of Drugs Control,
RS.No.98/5, Parambumalaikaradu,
Melakuikudi,
Nagamalai Pudukottai,
Madurai 625 019.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C,
praying, to call for the records in STC.No.2664 of 2023 on the file of the



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learned Judicial Magistrate IV, Madurai and to quash the proceedings as far as the petitioners are concerned.

For Petitioners : Mr.M.Mohammed Rafi

For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

ORDER

The learned Counsel for the Petitioners submits that the Petitioners are arraigned as accused 1 and 2 in STC.No.2664 of 2023 pending on the file of the learned Judicial Magistrate Court No.IV, Madurai. The second accused is the whole time Director of the first accused Company. The private complaint filed by the Respondent states that the Petitioners/accused 1 and 2 had contravened Section 18(c) of Drugs and Cosmetics Act, 1940 r/w Rule 65(3)(1) and 65(4)(3)(1) of Drugs and Cosmetics Rules, 1945. Therefore, they are punishable under Section 27(d) of Drugs and Cosmetics Act, 1940.

2.It is the further contention of the learned Counsel for the Petitioners that the private complaint was given by the Respondent herein, who is alleged to have inspected one of the retail outlet of the first accused



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Company on 16.02.2022. During the said inspection, it was alleged to have been observed by the Drug Inspector that the prescription register was not maintained from 01.12.2021 to 31.12.2021 and on 07.01.2022, there was no separate register maintained for the supply of schedule H1 drugs. There was no proper maintenance of prescription register. The complete address of the patient and prescribing Doctor were not maintained in the prescription register. The Drug Inspector also found out that certain drugs were sold without raising cash/credit numbers.

3.The Drug Inspector had issued a letter dated 16.02.2022 to Ms.K.Nithya/A3, who is the branch in-charge asking her to submit the drug license, prescription register for the period from 01.12.2021 to 16.02.2022, certain purchase invoices and copy of the certain sales bills for certain drugs. The said Nithya is alleged to have informed that the copy of the prescription register from 01.12.2021 to 31.12.2021 and the copy of the sales bills for certain drugs could not be provided, as it was not available at the time of inspection.



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4.Later on, a show cause notice dated 11.04.2022 was sent to the third accused, Nithya for contravention of Section 18(c) of Drugs and Cosmetics Act, 1940. A proposal was said to have submitted to the Director of Drugs Control, Tamil Nadu to prosecute the Petitioners. There is absolutely no allegation in the complaint as to how the Petitioners herein were responsible for the alleged violation. The learned Judicial Magistrate No.IV, Madurai, without considering the vital aspect and without considering the impugned complaint, which was lacking essential ingredient to make out the *prima facie* case, had erroneously taken the case on file against the Petitioners. Therefore, the learned Counsel for the Petitioners submits that the impugned private complaint in STC.No.2664 of 2023 on the file of the learned Judicial Magistrate No.IV, Madurai is purely an abuse of process of law. Therefore, he seeks to quash the same.

5.The learned Counsel for the Petitioners relied on the order passed by this Court in Crl.O.P.Nos.3906 and 3908 of 2020 dated 17.08.2020 filed by the very same Petitioner. The same order applies to the very same facts of the case.



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6.The learned Additional Public Prosecutor appearing for the Respondents submits that the Petitioners are leading medical store chain operating through out India. schedule H1 drugs indicate that it can not be sold without proper prescription, whereas the chain of stores had not followed the procedures, which will give rise to suspicion that schedule H1 drugs had been misused by the accused, which has dangerous repercussions as the general public are also affected. Therefore, the learned Additional Public Prosecutor seeks to dismiss this petition as having no merits.

7.On perusal of the rival submissions, it is found that the Petitioners had already moved this Court in Crl.O.P.Nos.3906 and 3908 of 2020. The same order applies to the very same facts of the case. Therefore, based on the said order, this Criminal Original Petition is allowed. The Petitioner shall in future maintain all records as per the Drugs and Cosmetics Act, 1940, for sale of schedule H1 drugs. Without mentioning the name of the party and without mentioning the Doctor prescribing the medicine and not maintaining the prescription register will be considered as serious and no leniency will be shown to the Directors of the Company as well as the persons, who is in-charge of day-to-day affairs of the Company, in future.



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

Internet: Yes./No
Index: Yes/No
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To

1.The Drug Inspector,
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Office of the Assistant Director of Drugs Control,
RS.No.98/5, Parambumalaikaradu,
Melakuikudi, Nagamalai Pudukottai,
Madurai 625 019.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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