



Crl.O.P.(MD)No.8750 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	02.12.2024
Delivered on	05.12.2024

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.8750 of 2021

and

Crl.M.P. (MD) Nos.4486 and 4487 of 2021

1.M/s.Rhydburg Pharmaceuticals Ltd.,
Rep. by its Managing Director
Mr.Ashok Monga

2.Ashok Monga

... Petitioners/
Accused Nos.1 & 2

Vs.

State rep. by
The Assistant Director of Drugs Control,
Trichy I Range,
Office of the Assistant Director of Drugs Control,
Trichirapalli Zone, C-2, I Floor,
2nd Cross West, Thillainagar,
Trichy – 620 018.

... Respondent/Complainant



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PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the entire records in C.C.No.1217 of 2019 pending on the file of Judicial Magistrate No.1, Tiruchirappalli and quash the same.

For Petitioners : Mr.K.P.S.Palanivel Rajan
Senior Counsel
for Mr.P.Ramesh Kumar

For Respondent : Mr.S.Ravi
Additional Public Prosecutor

ORDER

This petition has been filed to quash the proceedings pending in C.C.No.1217 of 2019 on the file of the learned Judicial Magistrate No.I, Tiruchirappalli.

2.The respondent filed a complaint against the accused persons for offence under Section 18(a)(i) punishable under Section 27(d) of the Drugs and Cosmetics Act, 1940. The case of the respondent is that a sample of 'Betamethasone valerate ointment IP' (hereinafter referred to as 'drug') was drawn for analysis by the Drugs Inspector and it was sent for analysis to the Government Analyst on 30.01.2018. On analysis, it was declared that the drug was not of standard quality vide



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report dated 08.05.2018. After enquiry, it was found that the drug was supplied by A1 company and hence, a show-cause memo dated 29.05.2018 was issued to the company being the manufacturer calling for an explanation and for submission of the relevant documents. A reply was sent by the company dated 10.07.2018. After getting the sanction, the private complaint came to be laid against the accused persons.

3.Heard the learned Senior Counsel appearing on behalf of the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondent.

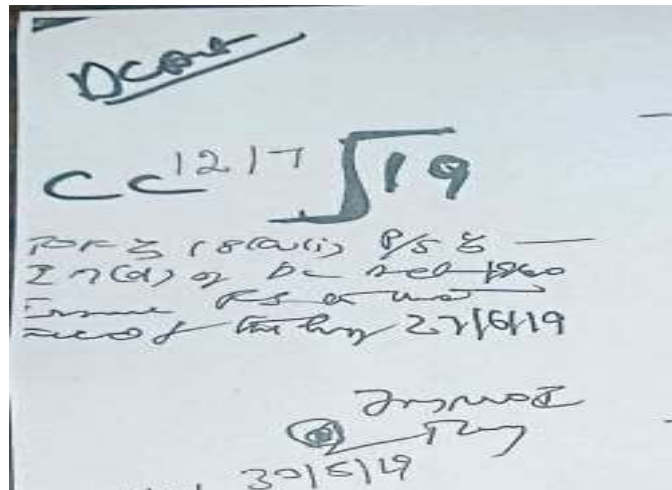
4.The learned Senior Counsel appearing on behalf of the petitioners raised various grounds and the grounds that were taken was also responded on the side of the prosecution with the support of a counter-affidavit filed by the respondent.

5.It is not necessary for this Court to go into all the grounds that have been raised since this Court finds that the Court below has taken rubber stamp cognizance without any application of mind. For



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proper appreciation, the cognizance order passed by the Court below is scanned and extracted hereunder:



6.This Court by relying upon the judgment of the Apex Court has repeatedly held that the process of taking cognizance is a judicial process which requires application of mind. A rubber stamp cognizance is no cognizance in the eye of law since what is being done is to put the seal in the complaint and fill-up the gaps. Such rubber stamp cognizance has been frowned upon by this Court. Useful reference can be made to the judgment of this Court in *Shanmugam and others v. Inspector of Police, Ariyalur Police Station, Ariyalur and others*, reported in (2019) 3 MLJ (Crl.) 339. The Apex Court also dealt with this



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issue in ***S.K.Sinha, Chief Enforcement Officer v. Videocon International Ltd & Ors.***, reported in ***(2008) 1 SCC (Crl.) 471.***

7.In the instant case, the accused persons are admittedly having the business beyond the territorial jurisdiction of the Court below and hence, the learned Magistrate is expected to conduct an inquiry and satisfy the requirements under Section 202(i) of Cr.P.C. This mandate has also not been satisfied in this case. The rubber stamp cognizance obviously will not reflect this requirement prescribed under Section 202(i) of Cr.P.C.

8.In the light of the above, the cognizance order passed by the Court below is hereby set aside. The matter is remanded back to the file of the learned Judicial Magistrate No.1, Tiruchirappalli and the learned Judicial Magistrate shall independently apply his mind on the complaint and the materials placed before the Court and take a decision with regard to taking cognizance of the case. This process shall be completed within a period of four weeks from the date of receipt of a copy of this order.



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9. In the result, this Criminal Original Petition is allowed with the above direction. Consequently, connected miscellaneous petitions are closed.

05.12.2024

NCC	:	Yes
Index	:	Yes
Internet	:	Yes
PKN		



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- To
- 1.The Assistant Director of Drugs Control,
Trichy I Range,
Office of the Assistant Director of Drugs Control,
Trichirapalli Zone, C-2, I Floor,
2nd Cross West, Thillainagar,
Trichy – 620 018.
 - 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH,J.

PKN

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Dated: 05.12.2024