



CRL OP(MD). No.35 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 06.02.2024

CORAM

The Hon`ble Mr.Justice M. DHANDAPANI

**CRL OP(MD) No.35 of 2022
and Crl.M.P.No.58 of 2022**

M/s. Pharmafabrikon
91-1, Vilathur,
Sivagangai Road,
Madurai - 20

... Petitioner

Vs

1. State through
The Senior Drugs Inspector,
Tirunelveli Zone, Tirunelveli.
O/o. The Assistant Director of Drugs Control,
Tirunelveli Zone, C-36, 25th Cross Street,
Maharaja Nagar, Tirunelveli – 11.

2. M. Nallperumal

... Respondents

PRAYER :- Criminal Original Petition file under section 482 of Cr.P.C.,
to pleased to call for the records of the complaint in S.T.C.No.364 of
2018 on the file of the Learned Judicial Magistrate No.IV, Tirunelveli
and Quash the same as illegal in so far as the petitioner.

For Petitioner : M/s. R.Gandhi for M/s. A.Balaji
Senior Counsel

For Respondents : M/s. P. Kottaisamy for R1
Government Advocate (Crl. side)



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M/s. M. Sridharan for R2

ORDER

This petition has been filed to quash the proceedings in STC No. 364 of 2018 on the file of the Learned Judicial Magistrate No.IV, Tirunelveli.

2.It is the case of the prosecution that the petitioner is a principal manufacturer of drugs. While so, the 2nd respondent has filed a complaint before the jurisdictional court under Section 18(a)(i), 17B(d), 18B, 18(c) of the Drugs and Cosmetics Act, stating that the samples taken from the petitioner's stockyard was not of standard quality. In order to include the petitioner in the said case as one of the accused, the 2nd respondent has filed a petition in Cr.M.P.No.5139 of 2018 under Section 319 Cr.P.C. The said petition was allowed by the court below. In order to quash the said proceedings, the petitioner is before this court.

3.The learned Senior counsel for the petitioner would submit that the petitioner though the original manufacturer of the drug in question



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has not manufactured the same, however, it has extended the manufacturing facilities alone to others and hence, submitted that the inclusion of the petitioner as an accused in the said case is illegal. The learned Senior counsel would further submit that before including the petitioner concern, neither notice nor opportunity of hearing has been extended to them to put forth their case and merely on the application filed by the 2nd respondent, the court below has included the petitioner as an accused and on this sole ground, though there is no challenge made to the allowing of the said petition, ie., inclusion of the petitioner as an accused, the petitioner has filed this petition to quash the entire proceedings and hence, the learned Senior counsel would pray for appropriate relief.

4.The learned counsel for the 2nd respondent has no serious objection for this court to remand back the matter for hearing the petitioner.

5.Considering the facts and circumstances of the case and in view of the consent expressed by both sides, though the petitioner has not



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challenged the inclusion of the petitioner as an accused and since the petitioner has challenged the entire proceedings, it is deemed to be considered that the petitioner has also challenged its inclusion as an accused in the proceedings and hence, in order to give an opportunity of hearing to the petitioner, the matter is remanded back to the court below and the trial court is directed to hear the petitioner as well as the 2nd respondent and pass appropriate orders.

Accordingly, this criminal original petition is disposed of. Consequently connected Miscellaneous petition is closed.

06.02.2024

RR

TO
The Senior Drugs Inspector,
Tirunelveli Zone,
Tirunelveli.
O/o. The Assistant Director of Drugs Control,
Tirunelveli Zone,
C-36, 25th Cross Street,
Maharaja Nagar,
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M.DHANDAPANI. J

RR

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