

2024:PHHC:089127



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Sr. No.117**CRM-M-29536-2024(O&M)****Date of decision : 17.07.2024**

Anil Kumar

..... Petitioner

VERSUS

State of Punjab through Drugs Inspector, SAS Nagar

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Nitin Bhasin, Advocate, for the petitioner.

KIRTI SINGH, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for quashing the impugned order dated 18.05.2024 (Annexure P20) in complaint case number COMA/66 dated 30.07.2020 titled as 'State of Punjab through Drugs Inspector Vs. Anil Kumar' pending before the learned Chief Judicial Magistrate, SAS Nagar, under Section 18(a)(i) read with Sections 27(c), 28(a) and 27(d) of Drugs and Cosmetics Act, 1940.

2. Learned counsel for the petitioner submits that the petitioner has been implicated in the present case because the drug manufactured by his firm, by the name of 'Rabcap' has allegedly been found to be of sub standard quality as per Drugs and Cosmetics Act. He further submits that a complaint dated 29.07.2020 was filed before the learned Court of Chief Judicial Magistrate, SAS Nagar and the learned Court took the cognizance of the matter without issuing the notice to the accused-petitioner vide order dated 30.07.2020. Thereafter, the notice was issued to the accused-petitioner by the trial Court vide order dated 11.02.2021 and subsequently, vide order dated 02.09.2021, the said Court had observed that due to inadvertent

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mistake notice had been issued without passing the summoning order. He also submits that the alleged summons, bailable and non-bailable warrant were not served upon the petitioner and despite that the learned Court had initiated proclamation proceedings against the petitioner and vide order dated 12.02.2024, the learned Court had issued proclamation under Section 82 Cr.P.C against the petitioner and vide order dated 18.05.2024, declared the petitioner as proclaimed offender. He submits that the petitioner has no criminal intention of manufacturing the drug by misleading the general public or for medical fortuity for illegal gain. He submits that the investigation has been concluded and the petitioner has fully cooperated with the concerned investigating agency. Hence, the petitioner has filed this petition for quashing of the impugned order dated 18.05.2024.

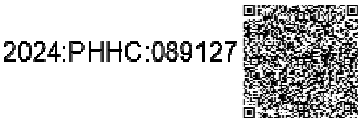
3. Notice of motion.

4. At asking of the Court, Mr. J.S. Dhaliwal, AAG, Punjab, accepts notice on behalf of respondent-State and waives service.

5. Heard.

6. On hearing learned counsel for the parties and perusing the record, it is apparent that initially, there were some lapses on part of the learned trial Court due to which the case was fixed for further proceedings without issuing notice to the petitioner and the same has been observed in order dated 11.02.2021 and subsequently, notice was issued to the petitioner however, due to inadvertent mistake while issuing notice summons to the petitioner was not directed and later, vide order dated 02.09.2021 summons were ordered. Subsequently, multiple notices were issued to the petitioner which were not received back. Subsequently, vide order dated 09.01.2023

non-bailable warrants were issued which were received back unexecuted. On



12.02.2024, learned trial Court ordered proclamation against the petitioner under Section 82 Cr.P.C. and after recording the statement of the serving constable declared the petitioner as proclaimed offender vide order dated 18.05.2024.

7. In view of the above, the present petition is allowed and order dated 18.05.2024 (Annexure P20) is hereby set aside/quashed subject to payment of cost of Rs.10,000/- by the petitioner to be deposited with the Poor Patient Welfare Fund, PGIMER Chandigarh within a period of 15 days from today. The petitioner after depositing the cost as stated above would appear before the trial Court on the next date fixed and file appropriate application along with receipt of payment of cost. The trial Court would release the petitioner on bail on his furnishing fresh bail bonds to its satisfaction. In case, the petitioner failed to appear before the trial Court on the next date fixed or failed to deposit the cost as stated above, this order would be of no avail to the petitioner.

8. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

17.07.2024
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No