

Crl.O.P.Nos.22924, 23859, 23869, 24536, 24539, 25607 & 25608 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 10.03.2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.Nos.22924, 23859, 23869, 24536, 24539, 25607 & 25608 of 2021
and

Crl.M.P.Nos.12524, 12526, 13155, 13156, 13157, 13158, 13525, 13526,
13530, 13532, 14189, 14190, 14192 & 14193 of 2021

K.Ramlal Jain

S/o.Kawarlal

... Petitioner in all Crl.O.Ps

Vs.

Union of India

Rep. by Drug Inspector

Office of the Deputy Drugs Controller (India)

Central Drugs Standard Control Organization

South Zone, 2nd Floor, Sastri Bhavan Annexe,

Chennai-600 006.

... Respondent in all Crl.O.Ps

Prayer in Crl.O.P.No.22924 of 2021: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records connected with C.C.No.197 of 2021 on the file of the learned Chief Judicial Magistrate, Thiruvallur and quash the same.

Prayer in Crl.O.P.No.23859 of 2021: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records connected with C.C.No.198 of 2021 on the file of the learned Chief Judicial Magistrate, Thiruvallur and quash the same.

Prayer in Crl.O.P.No.23869 of 2021: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records connected with C.C.No.199 of 2021 on the file of the learned Chief Judicial Magistrate, Thiruvallur and quash the same.



Crl.O.P.Nos.22924, 23859, 23869, 24536, 24539, 25607 & 25608 of 2021

Prayer in Crl.O.P.No.24536 of 2021: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records connected with C.C.No.196 of 2021 on the file of the learned Chief Judicial Magistrate, Thiruvallur and quash the same.

Prayer in Crl.O.P.No.24539 of 2021: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records connected with C.C.No.194 of 2021 on the file of the learned Chief Judicial Magistrate, Thiruvallur and quash the same.

Prayer in Crl.O.P.No.25607 of 2021: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records connected with C.C.No.193 of 2021 on the file of the learned Chief Judicial Magistrate, Thiruvallur and quash the same.

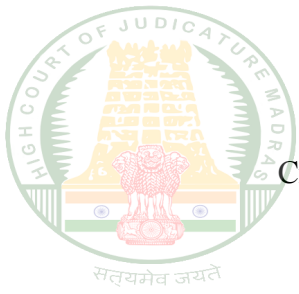
Prayer in Crl.O.P.No.25608 of 2021: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records connected with C.C.No.195 of 2021 on the file of the learned Chief Judicial Magistrate, Thiruvallur and quash the same.

For Petitioner in all Crl.O.Ps : Mr.S.Baskaran

For Respondent in all Crl.O.Ps : Mr.K.S.Jeyaganesan,
Special GOI

COMMON ORDER

These petitions have been filed to quash the C.C.Nos.193 to 199 of 2021 on the file of the learned Chief Judicial Magistrate, Thiruvallur.



Crl.O.P.Nos.22924, 23859, 23869, 24536, 24539, 25607 & 25608 of 2021

WEB COPY

2. The brief facts of the case:

The petitioner, as the proprietor of M/s. Kawarlal and Company, has been engaged in the business of importing and supplying drugs, chemicals, and raw materials for over five decades. The petitioner holds the necessary licenses under the Drugs and Cosmetics Act and the IEC registration under the Foreign Trade (Development & Regulations) Act, 1992, to legally conduct its business. As part of its operations, the petitioner purchased 45.900 kg of Megestrol Acetate from M/s. Nutranol Ingredients, duly paying the required amount, including CGST and SGST. The purchased goods were delivered and properly recorded in the petitioner's accounts, reaching the company's warehouse on April 20, 2019.

3. However, during an inspection by the respondent (Drug Department), a restraint order in Form 15 was issued, and later, the goods were seized under Form 16 on April 25, 2019, on suspicion of non-compliance with the Drugs and Cosmetics Act. Further, the petitioner submits that the respondent, via a letter dated April 26, 2019, addressed the Director, CDTL, Kolkata, along with Form 17, Form 17A, and Form 18 for



Crl.O.P.Nos.22924, 23859, 23869, 24536, 24539, 25607 & 25608 of 2021

testing. The CDTL, Kolkata, subsequently issued its test report on May 9, 2019, in Form 13 (No. 32-10/2019-SS/DCA (S)-5/1310).

4. The petitioner contends that the respondent did not provide a copy of the test report to the petitioner. It is also an admitted fact that the test report dated May 24, 2019, issued by CDTL, Kolkata, confirmed that the goods were of "standard quality." Despite this, the respondent issued a notice, to which the petitioner provided a suitable reply. The petitioner also submitted a representation to the respondent requesting the release of the goods with an undertaking, but this request was not considered.

5. Furthermore, the petitioner asserts that the test report dated May 9, 2021, was relied upon, but its copy was not furnished, thereby contravening the provisions of the Drugs and Cosmetics Act. After a delay of two years, a criminal complaint was filed before the Consent Court. The petitioner argues that the delay in filing the complaint, which was based on the test report dated May 9, 2019, renders the complaint frivolous and arbitrary, as it was not filed in accordance with legal provisions. Despite these legal infirmities, the learned Chief Judicial Magistrate, Thiruvallur, took cognizance of the case and registered it as C.C.Nos. 193 to 199 of 2021. Consequently, the



Crl.O.P.Nos.22924, 23859, 23869, 24536, 24539, 25607 & 25608 of 2021

petitioner seeks to have the cases quashed on the following grounds:

WEB COPY

i) There is no proof of obtaining prior sanction from the authority specified under Section 33G(4) of the Drugs and Cosmetics Act.

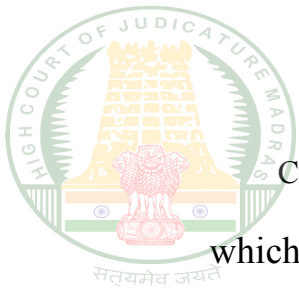
ii) A copy of the test report was not furnished as mandated under Section 25(2) of the Act.

iii) The complaint was lodged nearly two years later without any explanation for the delay, which is against the provisions of the law.

iv) The respondent/Drug Inspector violated Section 25(3) by failing to provide the petitioner with an opportunity to raise objections or submit a counter-response to either the Drug Inspector or the court within 28 days of receiving the test report. In this case, the petitioner was never given a copy of the report.

v) The respondent/Drug Inspector committed a serious violation of Section 23(3), which requires that samples of seized goods be divided into four portions, sealed, and marked appropriately, with the concerned party permitted to add their own seal. This procedure was not followed in this case.

vi) The respondent/Drug Inspector further violated Section 23(4),



Crl.O.P.Nos.22924, 23859, 23869, 24536, 24539, 25607 & 25608 of 2021

which mandates that one portion of the divided sample be restored to the person from whom it was taken. This was not complied with.

Vii) Additionally, Section 23(4)(ii) requires that the second portion of the sample be produced before the court if any proceedings are instituted regarding the drug. This procedure was also not followed.

Viii) The allegations in the complaint do not disclose the commission of any offense as alleged.

Therefore, in light of the above violations and procedural lapses, the petitioner prays for the quashing of the proceedings.

6. By way of reply to the counter objections raised by the respondent, the respondent submits that it is false to claim that the test report mentioned the quality of the sample. The report merely states that the sample conforms to certain tests, and this is not relevant to the present case, as the complaints have been filed for the contravention of Section 9(b), Section 10(b) & (c), Section 18(b), 18A, 18B, and Section 24 of the Drugs and Cosmetics Act, 1940. He further submits that the sanction to launch prosecution was duly obtained on 24.02.2020 from the competent authority, and the same was already enclosed as an annexure along with the complaint submitted before the learned Chief Judicial Magistrate, Thiruvallur. He also states that due to

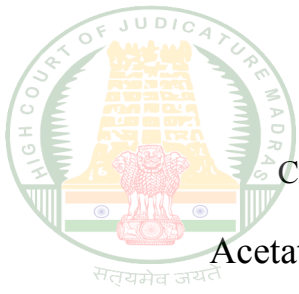


Crl.O.P.Nos.22924, 23859, 23869, 24536, 24539, 25607 & 25608 of 2021

the prevalence of the COVID-19 pandemic and the subsequent lockdown imposed by the Government, along with the closure of the Courts at that time, the filing of the present case was delayed.

7. Furthermore, the goods have already been destroyed, making it unnecessary to consider the representations made by the petitioner. Additionally, he submits that a copy of Form-17 was already enclosed with the complaint while submitting it before the Chief Judicial Magistrate, Thiruvallur. He argues that, under Section 23(4)(ii), the provision must be read along with Section 25(4) of the Drugs and Cosmetics Act, and therefore, the requirement of the same did not arise. Hence, the grounds raised by the petitioner to quash the proceedings are not sustainable, as the respondent has complied with the statutory requirements of the Act. He, therefore, prays for the dismissal of the petitions filed by the petitioner.

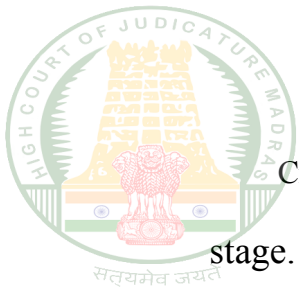
8. The petitioner contends that he is the Proprietor of M/s. Kawarlal & Co. and possesses the proper licenses required under the Drugs and Cosmetics Act to engage in the sale and distribution of drugs in the commercial market. However, he claims that he has been falsely implicated in this case. It is alleged that the petitioner kept a stock of Megestrol



Crl.O.P.Nos.22924, 23859, 23869, 24536, 24539, 25607 & 25608 of 2021

Acetate, which was purchased locally, in contravention of the provisions of the Drugs and Cosmetics Act. Following an inspection conducted by the respondent, the subject goods were seized on 25.04.2019. He further argues that the petitioner is innocent and has not committed any offence. He further asserts that the complaint was lodged against the petitioner due to bias and prejudice, contravening various provisions of the Drugs and Cosmetics Act. To substantiate this argument, several grounds have been raised, as discussed above. He also points out that the complaint was lodged before the concerned Chief Judicial Magistrate after a delay of two years, with no explanation provided for the said delay.

9. By way of reply, the prosecution submits that due to the pandemic situation and COVID-19 lockdown, they were unable to file a complaint before the competent court. The delay was not intentional. Admittedly, the facts surrounding the case arose in September 2019, and the sanction was obtained in February 2020. Thereafter, they filed a complaint before the competent court in the year 2021. During this entire period, the COVID-19 pandemic prevailed across the nation. Therefore, the submission of the respondent is also acceptable. However, this matter is not for trial at this



Crl.O.P.Nos.22924, 23859, 23869, 24536, 24539, 25607 & 25608 of 2021

stage.

WEB COPY

10. Furthermore, according to the petitioner, there was a violation of Section 25(2), which mandates that one copy of the said report be delivered to the person from whom the sample was taken. However, this allegation was denied by the respondent, who also pointed out that the contents of the report were not very relevant to the present case, as the complaint is filed for the contravention of Section 9(b), Section 10(b) & (c), Section 18(b), 18A, 18B and Section 24 of Drugs and Cosmetics Act, 1940.

11. The objections raised by the petitioner are subject to trial, and mere allegations are not sufficient to quash the proceedings. The objections submitted by the respondent reveal that there was a contravention of Section 9(b), Section 10(b) & (c), Section 18(b), Section 18(A), Section 18(B), and Section 24 of the Drugs and Cosmetics Act, 1940. Additionally, the impugned goods do not fall under the definition of Ayurvedic, Siddha, and Unani Drugs. Therefore, based on the respondent's contention, there is prima facie material to prosecute the petitioner. If the petitioner has any defense, they must seek remedy before the trial court by adducing proper



Crl.O.P.Nos.22924, 23859, 23869, 24536, 24539, 25607 & 25608 of 2021

evidence.

WEB COPY

12. Without such evidence, the mere allegations raised by the petitioner are not sustainable and cannot influence the observations made by this court. The trial court is directed to proceed with the case on its merits and dispose of it accordingly. Considering the age of the parties, this court is inclined to dispense with his personal appearance, as and when required.

13. Accordingly, these petitions are dismissed. Consequently, the connected miscellaneous petitions are closed.

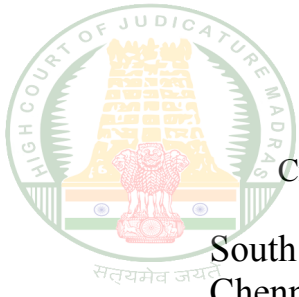
10.03.2025

Index: Yes/ No
Internet: Yes/No
Neutral Citation: Yes/No

rri

To

1.Union of India
Rep. by Drug Inspector
Office of the Deputy Drugs Controller (India)
Central Drugs Standard Control Organization



Crl.O.P.Nos.22924, 23859, 23869, 24536, 24539, 25607 & 25608 of 2021

South Zone, 2nd Floor, Sastri Bhavan Annexe,
Chennai-600 006.

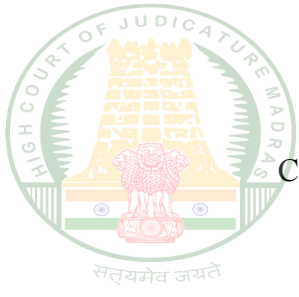
WEB COPY

2.The Chief Judicial Magistrate,
Thiruvallur.

3.The Public Prosecutor,
High Court of Madras.

T.V.THAMILSELVI, J.

rri



Crl.O.P.Nos.22924, 23859, 23869, 24536, 24539, 25607 & 25608 of 2021

WEB COPY

Crl.O.P.Nos.22924, 23859, 23869, 24536,
24539, 25607 & 25608 of 2021

10.03.2025