IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2025

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THE HONOURABLE **MR.JUSTICE SUNDER MOHAN**

Crl.A.No.729 of 2017

State represented by:
The Public Prosecutor,
High Court, Madras,
[In the matter of Drugs Inspector,
Park Town Range, Chennai – 06] ... Appellant/Complainant

Vs.

Bipin Prakash … Respondent/Accused

PRAYER: Criminal Appeal filed under Section 378 of Cr.P.C., to allow the appeal, set aside the judgment of acquittal dated: 08.06.2015 in C.C.No.2902/2007 on the file of the XV Metropolitan Magistrate Court, George Town, Chennai and convict the respondent/accused for the charges framed against him.

For Appellant : Mr.L.Baskaran
Government Advocate (Crl.Side)

For Respondent : No appearance

JUDGMENT

The instant appeal has been filed challenging the Judgment of acquittal passed by the learned XV Metropolitan Magistrate, George Town, Chennai – 600 001.

2. It is the case of the appellant/complainant that the accused/respondent had committed the offence under Section 18(c), punishable under Section 27(b)(ii) of the Drugs and Cosmetics Act, 1940, for having purchased and sold drugs without a valid drug license.

3. The brief facts leading to the filing of the complaint are as follows:

(a) On 04.02.2004, the Central Industrial Security Force (CISF) at the international terminal of Chennai Airport had detained six (6) persons with huge quantities of Drugs and Medicines and handed them over to the appellant along with the goods. On enquiry, the appellant came to know that those persons had procured the Drugs from M/s. National Medicines Pvt. Ltd., and the respondent herein.

(b) On 06.02.2004, the Drugs Inspector made further investigation at M/s. National Medicines Pvt. Ltd., 3/7, Nyniappa Naicken Sreet, Chennai – 3, and he noticed that between 01.10.2003 to 06.02.2004, M/s.National Medicines Pvt. Ltd., had sold drugs to the respondent under several invoices. The Drugs Inspector also conducted an inspection at the premises of the respondent and seized certain sales invoices in which they had mentioned the numbers of an expired drug license.

(c) A show cause notice was issued to the respondent. The respondent denied having purchased any drugs from M/s. National Medicines Pvt. Ltd. Not satisfied with the reply, the appellant filed the complaint, which was tried in C.C.No.2902 of 2007 by the learned XV Metropolitan Magistrate, George Town, Chennai – 600 001.

(d) The appellant examined four witnesses as P.W.1 to P.W.4 and marked 19 documents as Exs.P1 to P.19 to prove their case before the learned Magistrate. The respondent neither examined any witness nor marked any document.

(e). The trial Court after considering the evidence on record, held that the appellant/complainant had not established that the respondent/accused had purchased or sold drugs in contravention of the provisions of the Drugs and Cosmetics Act, 1940.

(f). Aggrieved, the appellant/complainant is before this Court.

4(a). Mr.L.Baskaran, the learned Government Advocate (Crl.Side) for the appellant/complainant, would submit that the appellant had examined four witnesses and had also marked the invoices for the period from 01.10.2003 to 30.12.2003, seized from M/s.National Medicines Pvt. Ltd., which establish the fact that the respondent/accused had purchased the drugs without valid license to the tune of Rs.1,91,279/- and paid Rs.1,86,279/- and there was an outstanding of Rs.5,000/- mentioned in all the bills.

(b) He would further contend that the Judgment of acquittal is perverse and contrary to the evidence on record and therefore has to be set aside.

5. Though notice has been served on the respondent/accused and a learned counsel had entered appearance, there is no representation for the respondent.

6. The case of the complainant/appellant, as stated earlier, is that six persons were intercepted at the Airport and were found in possession of huge quantities of Drugs and Medicines and on further enquiry, it was revealed that those drugs were either purchased from one M/s. National Medicines Pvt. Ltd., or from this respondent. The appellant had not examined those persons as witnesses. It is also their case that on further investigation, it was noticed that M/s. National Medicines Pvt. Ltd., sold drugs to the respondent under various invoices.

7. P.W.1 was working as an inspector in the investigation department of the appellant and deposed about the seizure of drugs from

the six individuals who were found in possession of a huge quantity of drugs. They also seized receipts from those persons said to have been issued by the respondent evidencing purchase of drugs from the respondent. The Xerox copies of those bills were marked as Ex.P5 series. P.W.2 was working at M/s.National Medicines Pvt. Ltd., and he deposed about the supply of medicines to the respondent and about Ex.P4 invoices seized from their office. P.W.3 was working as a Drugs Inspector at the relevant point of time and she corroborated the evidence of P.W.1. P.W.4, a Drugs Inspector filed the complaint.

8. As stated earlier, in order to prove the seizure of drugs at the Airport, the individuals from whom the drugs were seized were not examined. What was marked before the court were the Xerox copies of the bills said to have been seized from them. P.W.1 had spoken about the information given to him by those individuals. The said information would be hearsay in view of non examination of those individuals. The bills that were marked through him are Xerox copies, and there is no explanation offered by the complainant for not producing the originals of the bills. That apart, Ex.P4/the series of bills relied upon by P.W.1 and P.W.2 to establish that the drugs were purchased by the respondent from

the said company, M/s.National Medicines Pvt. Ltd., are also Xerox copies.

9. The trial Court found that neither P.W.1 nor P.W.2 had any explanation for not producing the originals of those receipts. The trial Court also found that in all 48 receipts, the outstanding amount is shown as Rs.5,000/- (Rupees Five Thousand only), which is improbable, as it is the case of the appellant that on reconciliation of accounts, a total sum of Rs.5,000/- was due.

10. It is also seen that P.W.2 had admitted in his cross-examination that all the bills were printed on 06.02.2004, at the instance of the appellant. He had also admitted that whenever the medicines were supplied, the company would retain the carbon copy of the bills, and those carbon copies were not available. Therefore, considering all the circumstances, the trial Court disbelieved those invoices and the case of the appellant that respondent purchased and sold the drugs without a valid license.

11. This Court finds that the view taken by the trial Court is plausible. There is no perversity so as to warrant interference in this appeal against acquittal. Consequently, the appeal is dismissed.

26.06.2025

Index: Yes/No
Speaking/Non-speaking order
Neutral citation: Yes/No.
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To

The XV Metropolitan Magistrate,
George Town,
Chennai - 6001,

SUNDER MOHAN, J.

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