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CRL RC No. 2089 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-09-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRL RC No. 2089 of 2023

AND

CRL MP NO. 19080 OF 2023

1. N.Nizamudeen
Proprietor of M/s. Family Medicals,
NO.104/45-B, Colony Junction Road,
K Theatre Road, Krishnagiri.

Petitioner(s)

Vs

1. State Rep By
P.Ramakrishnan, M.Pharm, Senior
drugs Inspector and Dharmapuri range
(i/c) , Office of the Assistant Director of
Drugs Control,Salem Zone, Salem.

Respondent(s)

PRAYER

To set aside the sentence dated 1.11.2023 imposed by the Principal Sessions Judge, Krishnagiri in Crl.A.NO.1/2021 and sentence dated 8.12.2020 imposed by the Judicial Magistrate , Krishnagiri in STC.NO. 435/2013.

For Petitioner(s): M/s. N.Sivaprakash
N.Manikandan
K.Sudha
K.Kunjambikai

For Respondent(s): Dr.C.E. Pratap,
Government Advocate (Crl. Side)

ORDER



This Criminal Revision Case has been filed to set aside the sentence dated 1.11.2023 imposed by the Principal Sessions Judge, Krishnagiri in CrI.A.NO.1/2021 and sentence dated 8.12.2020 imposed by the Judicial Magistrate , Krishnagiri in STC.NO. 435/2013.

2. The case of the prosecution is that on 14.12.2010, under the instruction from the Assistance Director of Drugs Control, Salem Zone, the Drugs Inspector, Namakkal Range inspected the premises of M/s. Family Medicals, 104/45B Colony Junction Road, K. Theatre Road, Krishnagiri dated 02.06.2003 valid upto 31.12.2012. At the time of inspection, the respondent found that they have sold 300 tablets of Anxinil 00.5 Batch No. 10054NI, 8x100 ml of Bricanil Syrup Batch No. BCK 017, 94 tablest of Ease 0.5 mg batch No. EPF 102 and 184 tablets of Anxil 0.5 batch No. ABD0049 without raising any cash/credit bills and sold the above drugs without proper prescription of the registered medical practitioner. Hence, they have contravened, Section 18(c) of the Drugs and Cosmetice Act 1940 r/w R. 65(4)(3)(i) & 65(9)(a) of the Drugs and Cosmetics Rules 1945(for the sake of convenience hereinafter referred as "Act") for having sold the above said drugs without raising any cash/credit bills and without proper prescription of the registered medical practitioner. Susequently, the Drug Inspector, Namakkal Range has issued a spot memo under Section 22 (1)(cca) of the "Act" required to produce particulars pertaining to above said contravention and the same was anknowleged by the proprietor. After completing due procedures, the Judicial Magistrate No.1, Krishnagiri,



taken the case on file. On the side of the petitioner P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P15 were marked. There is no witness was examined and no documents were marked.

3. After considering the oral and documentary evidence, the Trial court found the accused guilty of offence 18 (c) r/w Rules 65(4)(3)(i) & 65(9)(a) and 27 (d) of Drugs and Cosmetics Act, convicted and sentenced him to undergo Simple Imprisonment for one year and fined Rs.20,000/-, in default, Simple Imprisonment for one month. Aggrieved by the judgement, the appellant preferred the appeal before Principal Sessions Judge, Krishnagiri, in Crl.A No. 1 of 2021, by judgement dated 01.11.2023, the first appellate Court dismissed the appeal. Aggrieved over the same, the appellant preferred this Revision case.

4. The learned counsel for the appellant submits that both the Courts below had failed to take note of the fact that at the time of inspection of the bills and prescriptions of the petitioner, the respondent did not do the inspection in the presence of any independent witness. Further, it failed to take note that the petitioner was not caught red handed at the time of selling medicines without prescription and bills. Further, when it disbelieved the case of the respondent that the petitioner sold the medicine without prescriptions, it ought to have disbelieved the case of the respondent that the medicine were sold without bills as no evidence has been placed to show that the same were sold without bills when more particularly the respondent did not catch hold of the petitioner red



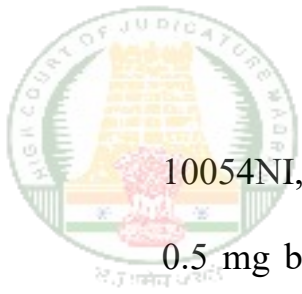
handed.

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5. Further he submits that the petitioner has voluntarily submitted the report with regard to medicines which were sold without bills and he has not sold the medicine with any malafide intention and at the time of inspection, bill book pertaining to those medicines were not able to produce since keeping the account not able to secure. However, the petitioner possessed proper records to keep the medicines and he was running a shop from the year of 2003 with unblemished records without considering the above the Courts below convicted the petitioner as such is erroneous and liable to be set aside. Hence, he prays to allow this case.

6. The learned Government Advocate (Crl. Side) submits that at the time of inspection made by the Drug Inspector the bill demanded by him has not been produced by the petitioner which itself proves that the petitioner sold the medicine without any bills, which was rightly appreciated by the Trial Court needs no interference.

7. Considering the facts and circumstances of the case, on 02.06.2003 the Assistant Director of Drugs Control, Salem Zone, the Drugs Inspector, Namakkal Range inspected the premises of M/s. Family Medicals, 104/45B Colony Junction Road, K. Theatre Road, Krishnagiri. At the time of inspection, the respondent found that they have sold 300 tablets of Anxinil 00.5 Batch No.



10054NI, 8x100 ml of Bricanil Syrup Batch No. BCK 017, 94 tablets of Ease 0.5 mg batch No. EPF 102 and 184 tablets of Anxil 0.5 batch No. ABD0049

without raising any cash/credit bills and sold the above drugs without proper prescription of the registered medical practitioner. According to the learned counsel for the petitioner, the petitioner is working in Government Medical College Hospital, Krishnagiri and there is no previous case against the petitioner. As per the records, the allegation against the petitioner is that he had sold the medicine without prescription of medical practitioner and bills. At the time of the inspection, the manager in charge of the said medical shop was not able to give the particulars as sought by the Drug Inspector. Hence, there is no error on the part of the petitioner but the Courts below have failed to appreciate the evidence erroneously convicted the petitioner as such is erroneous and liable to be set aside. Therefore, the Judgement passed by the Principal Sessions Judge, Krishnagiri in CrI.A.NO.1/2021 and judgement dated 8.12.2020 passed by the Judicial Magistrate, Krishnagiri in STC.NO. 435/2013 is set aside. The petitioner is acquitted from all charges. Accordingly, This Criminal Revision Case is allowed. Pending petition(s), if any, is/are closed.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To

- 1.The Principal Sessions Judge, Krishnagiri.
- 2.The Judicial Magistrate , Krishnagiri
- 3.The Public Prosecutor, High Court, Madras.

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T.V.THAMILSELVI J.
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