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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 01-04-2026

Pronounced on : 09-04-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL OP Nos.27548 of 2016 and 4847 of 2017

and

CRL MP Nos.14062 and 14063 of 2016

and

3620 and 3621 of 2017

1.M/s.Dharma Pharmacy Pvt. Ltd.,
Sriperumbudur,
No.48, Grand West Trunk Road,
Opp. To Rajiv Gandhi Memorial,
Sriperumbudur – 602 105,
Tamil Nadu,
India.
Rep. by its Managing Trustee
Director Mr.V.Dharmalingam.

2.Mr.V.Dharmalingam, Aged 57 years,
Managing Director,
M/s.Dharma Pharmacy Pvt. Ltd.,
Sriperumbudur – 602 105,
Tamil Nadu,
India.
Residing at
No.23, Parameswari Nagar,
II Street, Adyar,
Chennai – 600 020.

3.Mrs.Mageswari Dharmalingam,
aged 50 Years,
Director,
M/s.Dharma Pharmacy Pvt. Ltd.,



Sriperumbudur - 602 105,
Tamil Nadu,
India.
Residing at
No.23, Parameswari Nagar,
II Street, Adyar, Chennai – 600 020.

...Petitioners

Vs

1.The State of Tamilnadu,
Rep. by P.Thamarai Selvi,
Drugs Inspector,
Mylapore Range,
O/o. The Asst. Director of Drugs Control,
Zone - III, D.M.S. Campus,
259-261, Anna Salai,
Teynampet,
Chennai – 600 006.

2.The Union of India,
represented by The Ministry of Health and
Family Welfare,
Room No.402-D, Nirman Bhawan,
New Delhi -110011.

3.The Central Drugs Standard Control
Organization,
Directorate General of Health Services,
Ministry of Health and Family Welfare,
Government of India,
FDA Bhawan,
ITO, Kotla Road,
New Delhi-110002.

(R2 and R3 are *suo motu* impleaded as
per the order of this Court dated 03.02.2026 in
Crl.OP.Nos.27548 of 2016 and 4847 of 2017
in Crl.MP.Nos.14062 and 14063 of 2016
and 3620 and 3621 of 2017)

...Respondents



CRL OP No. 4847 of 2017

1.M/s.Dharma Pharmacy Pvt, Ltd.,
No.48, G.W.T. Road,
Opp.To Rajiv Gandhi Memorial,
Sriperumbudur – 602 105,
Tamil Nadu,
Rep by its Director,
Thiru.V.Dharmalingam.

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The Director,
M/s Dharma Pharmacy Pvt., Ltd.,
No.48, G.W.T. Road,
Opp.To Rajiv Gandhi Memorial,
Sriperumbudur – 602 105,
Tamil Nadu.

3.Tmt.Mageswari Dharmalingam
aged 56 Years,
The Director of,
M/s Dharma Pharmacy Pvt., Ltd.,
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...Petitioners

Vs

1.The State of Tamil Nadu,
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...Respondents

CRL OP No.27548 of 2016

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in CC.2841/2016 on the file of the IV Metropolitan Magistrate, Saidapet, Chennai – 600 016, and to quash the same.

CRL OP No. 4847 of 2017

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.6352 of 2016 on the file of the X Metropolitan Magistrate Court, Egmore, Chennai and to quash the same.



CRL OP Nos.27548 of 2016 and 4847 of 2017

For Petitioners:

Mr.V.Selvaraj
in both the Crl.O.Ps.

For Respondents:

Mr. R. Muniyapparaj,
Additional Public Prosecutor
Assisted By Mr. M. Sylvester John for R1
in both the Crl.O.Ps.

Mr. K. Ramanamoorthy,
Senior Panel Counsel for R2 & R3
in both the Crl.O.Ps.

Mr. R. John Sathyan,
Senior Counsel,
Amicus Curiae.

COMMON ORDER

(Order of the Court was made by Sunder Mohan J.)

The above quash petitions are listed before us, pursuant to an Administrative Order passed by Hon'ble Chief Justice, on the reference made by a learned Single Judge of this Court to decide the following question:

“In the absence of any amendment to Section 8 of the Special Act, whether a Drugs Inspector, who is appointed under Section 8 of the Special Act viz., Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, is competent to launch a prosecution, in respect of any drug falling under Ayurvedha, Siddha or Unani, if the said Drugs Inspector, is an Allopathy Drugs Inspector?

or in other words



Whether in respect of violation or contravention of any provisions of the Special Act viz., Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, only the Drug Inspectors of the respective field (Ayurvedha, Siddha, Unani) are competent / eligible to launch the prosecution, in the absence of any amendment to the Special Act.”

2. The learned Single Judge had also requested the Hon'ble Chief Justice to initiate *suo motu* action as regards the following which also has been referred for our consideration:

“(i) for regulation of “online advertisements” of drugs and medicinal tablets that are specifically banned under the Special Act viz., The Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954.

(ii) To create a controlling mechanism for the said purpose, since I find there are no rules or regulations in respect on 'online advertisement and sale', framed in Tamilnadu therefor.”

3. We shall first deal with the question that has been referred for our consideration. The brief facts that are necessary to answer the above question are as follows:

(a) The petitioners are facing prosecution for the offences under Sections 3(c) of the Drugs and Magic Remedies (Objectionable Advertisements) Act,



1954, punishable under Section 7(a) of the said Act and Section 3(d) read with the Schedule under Sl.Nos.9 & 12 and 13 & 18 of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, punishable under Section 7(a) of the said Act, before the Jurisdictional Magistrate.

(b) The petitioners are said to have caused an objectionable advertisement in a magazine by the name of "**Health Choice**," in respect of a drug, "**UTRAVIT – Syrup 200 ml**," claiming that it would cure all types of diseases and disorders of the uterus, and another drug by the name of "**GLYCENIL Capsule**," claiming that it controls diabetes.

(c) The State had filed the complaints through the Drugs Inspector, appointed and duly notified by the State in its Gazette, G.O. (4D) No. 20, dated 12.07.2013, as an Inspector for the State of Tamil Nadu.

(d) The petitioners filed the captioned quash petitions, which were heard by Hon'ble Mr.Justice RMT. Teekaa Raman (as His Lordship then was). It appears that the petitioners had placed reliance on an order passed by another learned Single Judge, (Hon'ble Mr.Justice M.Govindaraj, as His Lordship then was) in W.P.Nos.34099 of 2012 and 45 of 2013, dated 11.04.2022, in support of



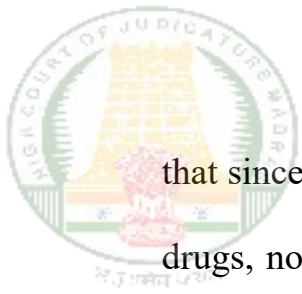
their submission that a complaint given by the Drugs Inspector was not maintainable.

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(e) In W.P.Nos.34099 of 2012 and 45 of 2013, the learned Judge held that an Inspector who is empowered to deal with allopathy drugs is not competent to file a complaint if there is an objectionable advertisement relating to any non-allopathy drugs such as Siddha, Ayurveda, Unani, etc.

(f) The Hon'ble Mr.Justice RMT. Teekaa Raman, who heard the above quash petitions, held that any Drugs Inspector, is competent to launch a prosecution irrespective of whether he is a Drugs Inspector acquainted with allopathy drugs or non-allopathy drugs such as Ayurveda, Siddha or Unani under the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 (hereinafter referred to as "*the Act*"). The learned Judge has referred the above question in view of his differing opinion.

4. Mr.R.John Sathyan, the learned Senior Counsel who was appointed as *Amicus Curiae*, submitted that the Act does not provide for any mechanism to launch a complaint; that therefore, the Drugs Inspector(s), authorised to conduct search and seizure under Section 8 of the Act and who are deemed to be public servants in view of Section 11 of the Act, are competent to lodge a complaint;



that since the prohibition under the Act is in respect of advertisements of certain drugs, no specific qualification is required for the Drugs Inspector(s) to launch the prosecution; and that the Hon'ble Supreme Court in ***Indian Medical Association and another Vs. Union of India and others*** in ***Writ Petition (Civil) No.645/2022 dated 26.03.2025*** had issued directions to all the States and Union Territories of India to be followed for initiating action under the Act.

5. Mr.V.Selvaraj, learned counsel for the petitioners, would submit that anybody can set the criminal law in motion; that the offences under the Act are cognizable; that the Police have the power to investigate and file a Final Report; that even assuming an officer appointed under Section 8 of the Act can lodge a complaint, he cannot be treated as a public servant for the purpose of Section 200 Cr.P.C.; and that therefore, the question under reference does not really arise for consideration.

6(i) Mr.R.Muniyapparaj, the learned Additional Public Prosecutor for the first respondent/State, would submit that the complaints were lodged in the year 2017; that the procedure directed to be followed by the Hon'ble Supreme Court recently would be followed henceforth; and that the complaints cannot be quashed on that ground and prayed for dismissal of the quash petitions.



(ii) He would also submit that the complainant is a competent Gazetted Officer appointed by the Government vide G.O.(Ms) No.2150 Health dated 28.08.1973.

7. Though the reference is only to decide the question referred to above, it is seen that there is no issue with regard to the competence of any Drugs Inspector to set the law in motion in respect of the offences under the Act. The learned counsel for the petitioners fairly concedes that any person can set the criminal law in motion and that includes a Drugs Inspector and no specific qualification is required under the Act.

8. The real issue in this case is as to who can initiate prosecution under the Act, in the absence of any mechanism to lodge a complaint under the Act. We say so not only because of the submissions made but also because of the directions issued by the Hon'ble Supreme Court in *Indian Medical Association's case (supra)*. The offences under the Act are cognizable as per Section 9A of the Act. Though Section 8 of the Act provides for the power of search and seizure by Gazetted Officer(s), authorised by the State Government, there is no specific provision, authorising the said Gazetted Officer(s) to lodge a complaint. According to Section 11 of the Act, the Gazetted Officer(s) appointed under Section 8 of the Act are deemed public servants. However, that



deeming provision is only for the purpose of search and seizure. It is perhaps for this reason that the Hon'ble Supreme Court in ***Indian Medical Association's case (supra)*** was of the view that a machinery must be created for effective implementation of the Act.

9. The Hon'ble Supreme Court in the said case had issued the following directions to all the States and Union Territories of India.

“We, therefore, issue the following directions to the States and Union Territories:

(i) The States/Union Territories shall ensure that adequate number of Gazetted Officers authorised in terms of Section 8(1) of 1954 Act are appointed within a period of one month from today;

(ii) Officers or persons authorised as referred to in Rule 3 of 1955 Rules are also appointed within a period of one month from today; and

(iii) We direct the States to sensitize the police machinery through the Police Training Institutes in the States about the importance of the implementation of the provisions of 1954 Act and Rules framed thereunder.

(iv) The State Governments shall create a Grievance Redressal Mechanism to enable the members of the public to lodge complaints about the objectionable



advertisements prohibited under the 1954 Act. The Grievance Redressal Mechanism may provide for making complaints either through a toll free number or by e-mail. We direct the State Governments to create proper Grievance Redressal Mechanisms within a period of two months from today and give adequate publicity to the availability of Grievance Redressal Mechanism at frequent intervals.

(v) As soon as complaints are received through the Grievance Redressal Mechanism or otherwise, the same shall be immediately forwarded to the concerned officers authorised under Section 8(1) of the 1954 Act to take action under the said provision. If the officer finds that there is a contravention of the provisions of the 1954 Act, he shall, apart from taking action under Section 8, forthwith set criminal law in motion by lodging a complaint with the jurisdictional police station so that an FIR can be registered and criminal law is set in motion.”

10. The above directions would further strengthen our view that the officers authorised in terms of Section 8(1) of the Act are not statutorily empowered to lodge a complaint and, in any case, not in their capacity as a public servant. The Hon'ble Supreme Court had directed that officers appointed under Section 8 (1) of the Act who find that there is a contravention of the provisions of the Act shall, apart from taking action under Section 8, forthwith set the criminal law in motion by lodging a complaint with the jurisdictional police station so that an FIR can be registered. The consequence of an FIR



being registered is that the jurisdictional police have to follow the procedure under Chapter XII of the Code of Criminal Procedure or Bharatiya Nagarik Suraksha Sanhita, thereafter and file a Final Report.

11. It is needless to mention that cognizance of any offence by the learned Magistrate can be taken either on a complaint or on a police report or *suo motu* as per Section 190 of Cr.P.C. The fact that the offence is cognizable may not bar a private complaint by any person. However, in view of the above directions of the Hon'ble Supreme Court, we are of the view that the procedure directed to be followed has to be strictly complied with. Even in an exceptional case where the Drugs Inspector chooses to file a complaint before the learned Magistrate directly, he cannot be deemed to be a public servant for the purpose of Section 200 of Cr.P.C., and he would be treated on par with any private citizen, as he is not statutorily empowered to lodge a complaint. We are also supported by the fact that only a restricted power has been conferred on the Drugs Inspector, appointed under Section 8(1) of the Act, viz., to inform the Magistrate about the search and seizure and obtain orders as to the custody of the objects / documents or registers seized thereof under Section 8(3) of the Act. No other power has been conferred on the Drugs Inspector, so appointed. Therefore, in view of the above orders of the Hon'ble Supreme Court, the question of law that has been



referred does not really arise for consideration, and the State Governments are bound to follow the above directions.

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12. In the instant case, the complaints have been lodged by the Drugs Inspector, claiming that permission was granted by the Director of Drugs Control, Tamil Nadu, to investigate and file a complaint. In fact, sanction also has been obtained to prosecute the petitioners. The Act does not provide for any such mechanism, and the Drugs Inspector(s), who have been authorised by the G.O., issued in the year 1973 referred to above, are not competent to either investigate or lodge a complaint. In any case, as stated above, he cannot claim the privileges of a public servant under Section 200 of Cr.P.C. In view of the procedural irregularities in the lodging of the complaint and in the taking of cognizance, we are of the view that the impugned complaints are liable to be quashed. However, liberty is granted to initiate fresh prosecution in accordance with the directions issued by the Hon'ble Supreme Court and subject to the provisions of Chapter XXXVI of the Code of Criminal Procedure.

13. The next issue that has been referred for our consideration is for taking action to regulate online advertisements of Drugs and Tablets that are banned under the Act and to create a mechanism for the said purpose. The Central Government was *suo motu*, impleaded by this Court. They had filed an elaborate Status Report giving details of the draft rules framed and stating that the objections/suggestions have been called for from all the stakeholders. The



affidavit further states that the amendment of the rules would also involve changes and amendments in other allied enactments and all that would be done in due course.

14. In fact, in the ***Indian Medical Association's case (supra)***, the Hon'ble Supreme Court has observed that the definition of the word “advertisement” is inclusive and takes within its fold advertisements in printed media or on television or other media. The relevant portion reads as follows:

“The basic object is to ensure that objectionable advertisements of drugs and magic remedies are not published. Section 2 defines both 'drugs' and 'magic remedies'. What is more important is the definition of 'advertisement' contained in Clause (a) of Section 2 which reads thus:

"2. Definitions. - In this Act, unless the context otherwise requires, - (a) “advertisement” includes any notice, circular, label, wrapper or other document, and any announcement made orally or by any means of producing or transmitting light, sound or smoke;”

As rightly stated by the learned Amicus Curiae, the definition of advertisement is an inclusive definition. It includes advertisements made in any manner. For the sake of clarity, the legislature has clarified that any notice, circular, label, wrapper or other document, and any announcement made orally or by any means of producing or transmitting light, sound or smoke, will amount to an advertisement. Thus, an advertisement is not restricted to



advertisement in printed media or on television or other media. It goes to the extent of covering a notice, circular, label, wrapper or other document or any announcement made orally or by any means of producing or transmitting light, sound or smoke.

15. In view of the observations of the Hon'ble Supreme Court that Section 2 of the Act takes care of online advertisements as well, it is needless to say that the authorities concerned can take action even in respect of online advertisements. We do not wish to further dilate on this issue, as we find that the Hon'ble Supreme Court had already issued directions, and the Central Government is in the process of taking steps to curb and deal with online advertisements that are prohibited. We may also note here that when the learned Judge had requested *suo motu* action to formulate a mechanism, he did not have the benefit of the order passed in the ***Indian Medical Association's case (supra)***, by the Hon'ble Supreme Court.

16. With the above observations, this Criminal Original Petitions are disposed of. Consequently, the connected miscellaneous petitions are closed.

(A.S.M.,J.) (S.M.,J.)
09-04-2026

Index : Yes
Speaking/Non-speaking order
Neutral Citation: Yes/No
dk



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To

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The State of Tamilnadu,
O/o. The Asst. Director of Drugs Control,
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