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CrI.O.P.No.31238 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.No.31238 of 2022 and
CrI.MP.No.19106 of 2022

Upen Shah

... Petitioner

Vs.

Union of India

Represented by Drug Inspector,

Office of the Deputy Drugs Controller (India)

Central Drugs Standard Control Organization (South Zone)

Shastri Bhavan Annex,

Chennai 600 006

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C. praying to call for the records in complaint CC.No.683 of 2022 pending on the file of the learned X Metropolitan Magistrate, Egmore, Chennai and quash the same against the petitioner.

For Petitioner : Mr.P.V.Balasubramaniam,
Senior Counsel
for Mr.Manojkumar.N

For Respondent : Dr.D.Simon,
Senior Central Government
Standing Counsel

ORDER

This criminal original petition has been filed to quash the proceedings in CC.No.683 of 2022 pending on the file of the learned X Metropolitan Magistrate, Egmore, Chennai.



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2. The respondent lodged complaint alleging that the petitioner is one of the Directors of the first accused company, a division of Cardila Healthcare Limited. The drug by name Oxytetracycline Hydrochloride Injection I.P, batch No.STIR 19113, date of manufacturing August-2019 and date of expiry-July 2021, manufactured by M/s.Zydus Animal Health, a division of Cardila Healthcare Limited was not of standard quality under the provisions of the Drugs and Cosmetics Act, 1940. After conducting enquiry, the respondent lodged complaint for the contravention of Section 18a(i) of Drugs and Cosmetics Act, 1940 and punishable under Section 27 (d) of the Drugs and Cosmetics Act, 1940. There are totally 12 accused, in which the petitioner is arrayed as A7. He has been implicated as accused as a director of M/s.Zydus Animal Health, a division of Cardila Healthcare Limited.

3. The leaned Senior Counsel appearing for the petitioner submits that even according to the respondent, the subject drug was manufactured in the month of 2019 and its expired date is July 2021. The petitioner who is being one of the Directors of the first accused company, has been implicated as an accused on the strength of the letter dated 04.12.2020 issued by the Company Secretary of the first accused, thereby stating that the petitioner is also one of the Directors of the first accused



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company. Form-17 issued by the respondent was produced. Accordingly, the subject drug was seized from the first accused company on 24.10.2019. On the date of the manufacture or on the date of drawing of sample, the petitioner was not a director and even as per the letter dated 04.12.2020 issued by the Company Secretary of the first accused company, the petitioner was inducted as Director only on 23.08.2020. That apart, except the allegation of one of the Directors of the first accused company against the petitioner, there is no other allegation to implicate the petitioner as accused whether the petitioner has involved in the day to day affairs of the first accused company and the petitioner is well responsible for the manufacture of the subject drug on the date of the drawal of the subject drug.

4. Per contra, the learned Senior Central Government Standing Counsel appearing for the respondent filed counter on behalf of the respondent and submitted that the grounds raised by the petitioner can be considered only during the trial. Whatever the documents produced by the petitioner before this Court, the same can be considered during the trial and on that ground, the impugned proceedings cannot be quashed by this Court under Section 482 of Cr.P.C. He further submitted that the respondent, after receipt of the analysis report, found that the subject drug

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was not of standard quality and as such, there is a clear contravention of provisions under Section 18a(i) of Drugs and Cosmetics Act, 1940 and punishable under Section 27 (d) of the Drugs and Cosmetics Act, 1940.

5. Heard the learned counsel appearing on either side and perused all the materials placed before this Court.

6. The only ground raised by the learned Senior Counsel appearing on behalf of the petitioner is that on the date of drawal of the subject drug and on the date of manufacture of the subject drug, the petitioner was not a director of the first accused company. Further, the respondent did not even state any specific allegation against the petitioner whether the petitioner actively participated in the day to day affairs of the first accused company and whether he actively participated in the manufacture of the subject drug. On perusal of the counter filed by the respondent, it is revealed that the Directors of the company are implicated as accused only on the basis of the reply issued by the Company Secretary of the first accused company dated 04.12.2020. The letter dated 04.12.2020 has been produced before this Court. On perusal of the same, it is revealed that along with the reply, the Company Secretary of the first accused company enclosed the list of Directors. On perusal of the list of

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Directors, it is revealed that the petitioner has been implicated as Director of the first accused company only from 25.08.2020. Further, the copy of the form-17 which was served by the respondent to the first accused company, reveals that the drawal of the subject drug was made on 24.10.2019. As per the records, the subject drug 'Oxytetracycline Hydrochloride Injection I.P' was manufactured in the month of August 2019 and the sample of the said subject drug was taken 24.10.2019. Therefore, on the date of the manufacture of the subject drug and on the date of the drawal of the sample drug, the petitioner was not a director of the first accused company. Therefore, the documents produced before this Court are unimpeachable document and as such, continuation of trial against a person who was not a director on the date of the alleged occurrence, cannot be ordered to face ordeal trial.

7. Further, on perusal of the entire complaint, except the allegation of being a director of the first accused company, no other specific allegations have been levelled against the petitioner as if he also involved in the day to day affairs of the first accused company during the relevant period of manufacture of the drug in the month of August 2019. Therefore, there is no allegation that the petitioner actively participated in the day to day activities of the first accused company which is a loan



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licence manufacturer of subject drug. The provisions under Section 34 of Drugs and Cosmetics Act, 1940 provides that the liability arises on account of conduct, act or omission on the part of a person and not merely on account of holding an office or a position in a company. In fact, as far as the petitioner is concerned, though he was inducted as a director of the first accused company on 25.08.2020, on the date of the manufacturing the subject drug and on the date of the drawal of the sample of the subject drug, the petitioner was not even a director of the first accused company and he was simply made as an accused.

8. In view of the above discussion, the entire impugned proceedings cannot be sustained against the petitioner. Accordingly, this criminal original petition is allowed and the entire impugned proceedings is quashed in respect of the petitioner alone. The trial court is directed to proceed with the trial in respect of the other accused persons in accordance with law and complete the same within a period of six months from the date of receipt of this order. Consequently, connected miscellaneous petition is closed.

27.04.2026

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

- 1.The learned X Metropolitan Magistrate, Egmore, Chennai
- 2.Union of India
Represented by Drug Inspector,
Office of the Deputy Drugs Controller (India)
Central Drugs Standard Control Organization (South Zone)
Shastri Bhavan Annex,
Chennai 600 006
- 3.The Public Prosecutor,
High Court of Madras



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G.K.ILANTHIRAIYAN, J.

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