HC-KAR

NC: 2026:KHC:60798
CRL.P No. 1600 of 2024

CNR: KAHC010089352024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 1600 OF 2024

BETWEEN:

1. M/S LIFE VISION HEALTHCARE
PLOT NO. 140, 141
EPIP, PHASE-1, JHARMAJRI,
HIMACHAL PRADESH-174 103
REP. BY ITS PARTNER,
MANAGING PARTNER
SRI. NAVEEEN KUMAR BANSAL

2. SRI NAVEENE KUMAR BANSAL
S/O VIJAY KUMAR BANSAL
AGED ABOUT 51 YEARS,
MANAGING PARTNER OF
M/S LIFE VISION HEALTHCARE
PLOT NO. 140-141, EPIP PHASE-1,
JHARMAJRI, BADDI, DISTRICT-SOLAN
HIMACHALPRADESH-174 103.

...PETITIONERS

(BY SRI. NITIN BHASIR, ADVOCATE
SRI. UDAY URS, ADVOCATE)

Digitally signed by
PANKAJA S
Location: HIGH
COURT OF
KARNATAKA

AND:

STATE AT THE INSTANCE
ASST DRUGS CONTROLLER
BENGALURU CIRCLE-1
BENGALURU
REP BY SPP
HIGH COURT OF KANATAKA,

HIGH COURT,
BANGALORE-560 001.

…RESPONDENT

(BY SRI. MAHESHA P, HCGP)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDINGS PENDING IN C.C.NO.43/2023 ON THE FILE OF SPECIAL COURT FOR ECONOMIC OFFENCES, BENGALURU FOR THE ALLEGED VIOLATION OF SEC. 18(a)(i) R/W 27(d) OF DRUGS AND COSMETICS ACT AND RULE THEREUNDER.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This petition is filed under Section 482 of Cr.P.C seeking to quash proceedings against the petitioners - accused Nos.1 and 2 in C.C.No.43/2023 for the violation of offence Section 18(a)(i) punishable under Section 27(d) of Drugs and Cosmetics Act, 1940 and Rules thereunder, presently pending on the file of Special Court for Economic Offences, Bengaluru (for short, 'the learned Magistrate').

2. The brief facts of the case, as borne out from the records, are that the respondent-CW.4, namely, the Assistant Drugs Controller, Bengaluru Circle-1, Bengaluru, has instituted a private complaint under Section 200 of the Code of Criminal Procedure, alleging commission of the offence punishable under Section 27(d) of the Drugs and Cosmetics Act, 1940, for contravention of Section 18(a)(i) of the said Act, against the petitioners and two other accused persons.

3. It is averred in the complaint that petitioner No.1-accused No.1, namely, M/s. Life Vision Healthcare, is a pharmaceutical manufacturing company engaged in the manufacture and sale of drugs, and accused No.2, who is petitioner No.2 herein, is the Managing Partner of the said company. It is further alleged that accused No.1-company had manufactured and marketed a drug bearing the name 'Impcal Tablets' (Calcium Orotate with Vitamin D3 Tablets I.P.), B.No. LTA-2497, manufactured in September 2019 and having an expiry date of February 2021. Upon analysis, the said drug was reported to be 'Not of Standard Quality'.

4. On the basis of the aforesaid allegations, the respondent has alleged that accused Nos.1 to 4 have contravened the provisions of Section 18(a)(i) of the Drugs and Cosmetics Act, 1940, which is punishable under Section 27(d) of the said Act.

5. Upon consideration of the private complaint, Forms Nos.13, 17 and 18, notices issued under Sections 18A and 18B of the Act, and the connected correspondence, replies and other documents placed on record, the learned Magistrate took cognizance of the alleged offence and proceeded to issue summons to the accused persons. Being aggrieved by the order of taking cognizance and issuance of summons, the petitioners have preferred this petition.

6. Heard the learned counsel for the respective parties.

7. Apart from raising various other contentions, the learned counsel appearing for the petitioners primarily contended that the learned Magistrate has failed to apply his judicious mind while taking cognizance of the alleged offence. It

was argued that the mandatory requirement contemplated under Section 23(4)(i) of the Drugs and Cosmetics Act, 1940, has not been complied with, inasmuch as the respondent failed to forward the seized drug to the Government Analyst for analysis forthwith. On the contrary, the seized drug was forwarded for chemical analysis after a lapse of two days from the date of its seizure.

8. It was further contended that the private complaint itself came to be instituted after the expiry of the shelf life of the drug, thereby depriving the petitioners of their valuable statutory right under Sections 25(3) and 25(4) of the Drugs and Cosmetics Act, 1940 to seek re-analysis of the drug by the Central Drugs Laboratory. According to the learned counsel, such failure has resulted in prejudice to the petitioners and has seriously impaired their statutory defence.

9. The learned counsel further submitted that petitioner No.2 cannot be prosecuted merely on the ground that he is the Managing Partner of accused No.1-company, particularly in the absence of any specific allegation or material demonstrating his involvement in, or responsibility for, the day-

to-day conduct of the business of the company. On these grounds, the learned counsel sought to contend that the continuation of the proceedings against the petitioners is unsustainable in law and, accordingly, prayed that the petition be allowed.

10. In order to buttress his argument, he relied on the following judgments:

i. Medicamen Biotech Ltd v. Rubina Bose, Drug Inspector - (2008) 7 SCC 196

ii. State of Punjab v. National Organic Chemical Industries Ltd., - (1996) 11 SCC 613

iii. Inox Air Products Ltd., v. State of Andra Pradesh - 2025 SCC OnLine SC 209

iv. Lalankumar Singh v. State of Maharashtra - 2022 SCC OnLine SC 1383

11. *Per contra*, the learned HCGP, opposing the prayer sought by the petitioners, contended that the averments made in the private complaint *prima facie* disclose that petitioner No.2 is the Managing Partner of petitioner No.1-company and is

actively involved in the affairs and functioning of the said company. Therefore, petitioner No.2 is also liable to be prosecuted for the alleged offences along with petitioner No.1.

12. With regard to the alleged delay in forwarding the seized drug for chemical analysis, the learned HCGP submitted that, under special circumstances and for justifiable reasons, the period for conducting the analysis may be extended. In the present case, the drug was initially seized from the pharmaceutical establishment of CW.3 and was thereafter forwarded for chemical analysis, which revealed that the drug was not of standard quality. During the course of further enquiry, CW.3 disclosed that the said drug had been supplied by petitioner No.1-company. Thereafter, the respondent proceeded with the investigation against the accused persons by following the procedure prescribed under the Drugs and Cosmetics Act, 1940 and Rules thereunder. Hence, it was contended that there was neither any procedural irregularity nor any undue delay in forwarding the sample for chemical examination.

13. The learned HCGP further submitted that the report of the Government Analyst clearly establishes, *prima facie*, that the drug supplied by petitioner No.1-company to CW.3 was not of standard quality. In view of the material available on record, a *prima facie* case is made out against the petitioners, and therefore, the proceedings initiated against them do not warrant interference by this Court at this stage. Accordingly, the learned HCGP sought for dismissal of the petition.

14. I have given my anxious consideration to the submission made by the learned counsel for the respective parties and also perused the materials on record.

15. On careful perusal of the private complaint averments and the cognizance order passed by the learned Magistrate, it is evident that, on 18.02.2020, CW.2, namely, the Assistant Drugs Controller-1,Bengaluru Circle-1, Bengaluru, had drawn a legal sample of the drug, namely, 'Impcal Tablets' (Calcium Orotate with Vitamin D3 Tablets I.P.), B.No.LTA-2497, manufactured in September 2019 and having an expiry date of February 2021, from the pharmaceutical establishment of CW.3, by issuing Form No.17 dated 18.02.2020.

16. During the course of subsequent enquiry, it was revealed that the aforesaid drug had been manufactured by petitioner No.1-company, of which petitioner No.2 is stated to be the Managing Partner. Thereafter, on 20.02.2020, i.e., after a lapse of two days from the date of seizure, the sample of the drug was forwarded for chemical analysis along with the memorandum in Form No.18, in accordance with Sections 23 and 24 of the Drugs and Cosmetics Act, 1940.

17. Subsequently, on 24.08.2020, CW.4 received the test report, wherein the drug was declared to be 'Not of Standard Quality' insofar as the parameter relating to 'Assay for Vitamin D3' was concerned. On the following day, i.e., 25.08.2020, CW.4 issued a notice to CW.3 under Sections 18A and 18B of the Drugs and Cosmetics Act, 1940, along with the test report in Form No.13. In response thereto, CW.3 disclosed that he had purchased the aforesaid drug from the petitioners.

18. No doubt, the petitioners sought re-analysis of the drug sample by addressing a letter dated 15.04.2021 to CW.4. However, the records disclose that CW.4 had informed the petitioners, vide communication dated 28.08.2020, that the

drug sample had been declared as 'Not of Standard Quality', along with a copy of the test report. Despite receiving the said intimation, the petitioners did not seek re-analysis within a reasonable time and approached CW.4 only after a lapse of nearly eight months. Thus, the request for re-analysis was belated.

19. By the time the petitioners sought re-analysis, the shelf life of the drug had already expired in February 2021. In the circumstances, the inability to subject the sample to further analysis cannot, by itself, be attributed to any procedural lapse or negligence on the part of the respondent or CW.4. Therefore, the contention of the petitioners that the respondent committed a procedural irregularity in this regard cannot be accepted on the basis of the material presently available on record.

20. Further, as already discussed hereinabove, there is no inordinate delay in forwarding the seized drug sample for chemical analysis. Admittedly, the drug sample was seized on 18.02.2020 and forwarded for chemical analysis on 20.02.2020, i.e., within a period of two days from the date of seizure. In the circumstances, the expression 'forthwith'

employed under Section 23(4)(i) of the Drugs and Cosmetics Act, 1940, cannot be construed to mean that the seized drug sample must necessarily be forwarded for chemical analysis immediately upon its seizure, without undertaking the other procedural steps contemplated under the provisions of the said Act. The authorities are required to comply with the prescribed procedure, including seizure of the drug sample and issuance of the requisite notice to the retailer, before forwarding the sample for analysis. Therefore, forwarding the seized drug sample for chemical analysis within two days cannot, in the facts and circumstances of the present case, be construed as an undue or unexplained delay. Hence, the contention urged by the learned counsel for the petitioners in this regard is devoid of merit and cannot be accepted.

21. The next contention urged by the learned counsel for the petitioners is that petitioner No.2, though stated to be the Managing Partner of petitioner No.1-company, was not concerned with or responsible for the day-to-day affairs of the company. However, the petitioners have failed to place any cogent or reliable material on record to substantiate the said

contention. On the contrary, the averments made in the private complaint *prima facie* indicate that petitioner No.2, being the Managing Partner of petitioner No.1-company, was actively involved in the affairs and day-to-day functioning of the company. In view of the specific allegations made in the complaint, the judgments relied upon by the learned counsel for the petitioners are distinguishable on facts and are not applicable to the case on hand.

22. Upon an overall consideration of the averments made in the private complaint and the material placed on record, *prima facie* reveals, there is serious allegations have been made against the petitioners regarding the manufacture and sale of drugs which were found to be not of standard quality. The allegations, if established, have a direct bearing on public health and cannot be lightly brushed aside at this stage. The matter, therefore, warrants a full-fledged trial, wherein the respective parties will have an opportunity to establish their case in accordance with law. Needless to observe that the petitioners are at liberty to urge all the contentions raised herein before the learned Magistrate during the course of trial.

23. In view of the foregoing discussion, and without expressing any opinion on the merits of the case, I am of the considered opinion that the petition does not merit consideration. Accordingly, the petition stands ***dismissed.***

SD/-
(RAJESH RAI K)
JUDGE

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List No.: 1 Sl No.: 3