
(2009) 10 RAJ CK 0068
In the Rajasthan High Court

Bharat H. Shah

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 13-10-2009

Acts Referred:

Constitution of India, 1950 — Article 21
Drugs and Cosmetics Act, 1940 — Section 10, 17B, 18A, 18B, 22
Penal Code, 1860 (IPC) — Section 120B, 420

Citation : (2009) 10 RAJ CK 0068

Hon'ble Judges : Raghvendra S. Chauhan, J

Bench : Single Bench

Judgement

R.S. Chauhan, J.—The petitioner has prayed for quashing the FIR, FIR No. 356/2009, registered at Police Station Ashok Nagar Jaipur for offences under Sections 420, 120-B IPC and 9B(E), 10(BB/13A), 17B(E), 18A(1)/27, 18B and 22(3) Drugs and Cosmetic Act, 1940.

2. Mr. Anil Upman, the learned Counsel for the petitioner, has contended that there is hardly any allegation against the petitioner in the FIR filed by the Drug Inspector. Secondly, in the raid, carried out at the premises of M/s Shree Vinayak Trading Company, a proprietorship firm, managed by the petitioner, no incriminating evidence, whatsoever, was found. Thus, according to the learned Counsel, no prima facie case is made out for offences under 420, 120-B IPC and 9B(E), 10(BB/13A), 17B(E), 18A(1)/27, 18B and 22(3) Drugs and Cosmetic Act, 1940.

Drugs and Cosmetic Act, 1940. Thirdly, despite the non-existence of a prima facie case, the Investigating Agency is bent upon Heard the learned Counsel for the petitioner and perused the FIR as well as the documents submitted by the petitioner.

3. A bare perusal of the FIR reveals that according to the complainant, the Drug Inspector, complaints had been received from M/s V.H.B. Life Science Ltd. Mumbai that some of the medicines manufactured by it were being produced

spuriously and were being sold in the market by M/s Madiline Pharma. Therefore, a raid was conducted on the shop of M/s Madiline Pharma. At the time of raid, Mr. Manoj Kumar Agarwal, who is the partner and Pharmacist for M/s Madiline Pharma, was present. In his statement, he admits that the samples of medicine called Iviglob Ex, 5gm/100 ML B. No. 200806010 were bought from M/s Shree Vinayak Trading Company, i.e. from the proprietary firm of the petitioner. Later on in the FIR, it is revealed that some of the drugs so discovered at M/s Madiline Pharma were spurious in nature.

4. The learned Counsel has not been able to make out any case of a malafide intention on the part of the Investigating Agency or of a case of malicious prosecution on their behalf for wreaking vengeance private or personal grudge against the petitioner. In fact, he has not levelled any allegation of malafide or of personal grudge against any officer of the Investigating Agency. Therefore, clearly, this case does not fall under the circumstances enumerated in the Bhajanlal and Ors. (supra).

5. The learned Counsel has of course relied upon the report prepared by the Investigating Agency, when the petitioner's premises were raided. He has also tried to rely upon other documents in order to create a plausible defence in favour of the petitioner. On the basis of these documents, he has argued about the innocence of the petitioner. However, it is a settled principle of law that at the initial stage, the Court can

6. The learned Counsel has strenuously argued about the violation of personal liberty as enshrined under Article 21 of the Constitution of India. However, the investigation is being done according to the procedure established by law. Therefore, the State does have the power to interfere with the personal liberty of a person provided the Investigating Agency follows and adheres to the procedure established by law. It is not the case of the petitioner that the procedure has been violated and his personal liberty is being threatened by the State after violating the procedure established by law. As long as the procedure is being followed, the petitioner cannot claim violation of Article 21 of the Constitution of India. The hands of the Investigating Agency cannot be tied as long as the Investigating Agencies are adhering to the procedure established by law. It is only when the Investigating Agency disregards the procedure, violates the procedure, or deviates from the procedure, then a court would be justified in interfering with the investigation. But in the present case, there is not an iota of evidence to show that the Investigating Agency

7. For the reasons stated above, the petition is devoid of any merit. It is, hereby, dismissed.