
(2014) 05 JH CK 0039
In the Jharkhand High Court
Case No : Cr. M.P. No. 94 of 2012

Laborate Pharmaceuticals India Ltd.

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 07-05-2014

Acts Referred:

Drugs and Cosmetics Act, 1940 — Section 25, 25(3), 25(4), 27(d)

Citation : (2014) 3 JLJR 129

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Advocate : Deepak Kumar Prasad, Advocate for the Appellant; Tapas Kabiraj, Advocate for the Respondent

Judgement

Rakesh Ranjan Prasad, J.—Before proceeding with the matter, the order recorded on 13.2.2013 needs to be reproduced hereinbelow:--

"Some samples of medicines were collected from the Government Dispensaries which medicines had been supplied by the petitioners" company. Those medicines were sent for its chemical examination before the chemical analyst on 13.7.2009 and the report was submitted on 1.2.2010. Thereupon without serving the copy of the report of the chemical analyst to the petitioners, a compliant was lodged on 27.4.2010 in which cognizance of the offences punishable under Section 27(d) of the Drugs and Cosmetics Act has been taken which has been challenged to be bad for the reason that the copy of the report of the chemical analyst had never been supplied to the petitioners so that the petitioners take recourse of the provision as contained in sub-section (3) of Section 25 of the Drugs and Cosmetisc Act and thereby entire prosecution gets vitiated, in view of the decision rendered in a case of Medicamen Biotech Ltd. and Another Vs. Rubina Bose, Drug Inspector, .

Let notice be issued upon the opposite party No. 2 under registered cover with A/D for which requisites must be filed within a week.

Let this matter be listed on appearance of opposite party No. 2.

Till then, further proceeding in case No. C-III-184 of 2010, pending in the Court of Judicial Magistrate, Ranchi shall remain stayed so far the petitioners are concerned."

A counter affidavit has been filed wherein it has been stated that after the sample was collected, it was sent before the Central Drug laboratory, Kolkata for its analysis. Government Analyst having analyzed the sample submitted its report on 1.2.2010 but no specific statement has been made with respect to service of the copy of the report of the Analyst to the petitioner.

2. In that event, there appears to be non-compliance of the statutory provision as contained in Sections 25(3) and 25(4) of the Drugs and Cosmetics Act.

3. In that view of the matter, entire prosecution gets vitiated, in view of the decision rendered in a case of Medicamen Biotech Ltd. and Another Vs. Rubina Bose, Drug Inspector, .

4. Accordingly, entire proceeding of C-III Case No. 184 of 2010 including the order dated 27.4.2010/1.5.2010 taking cognizance is hereby quashed. In the result, this application stands allowed.