

(2024) 12 KL CK 0115

In the High Court Of Kerala

Case No : Criminal Miscellaneous Petition No. 3914 Of 2020

M/s Bharath Paranternals Ltd

APPELLANT

Vs

Drug Inspector

RESPONDENT

Date of Decision : 19-12-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 205, 482
Drugs and Cosmetics Act, 1940 — Section 18(9)(1), 27(d)

Citation : (2024) 12 KL CK 0115

Hon'ble Judges : G. Girish, J

Bench : Single Bench

Advocate : T.D.Susmith Kumar, C.Sivadas, Sajina

Final Decision : Dismissed

Judgement

G. Girish, J

1.The accused in C.C.No.698/2018 on the files of the Judicial First Class Magistrate Court-I, Thamarassery have filed this petition under Section 482 Cr.P.C to quash and set aside Annexure-A4 order passed by the learned Magistrate in a petition filed by them under Section 205 Cr.P.C.

2. The case against the petitioners is based on a complaint filed by the Drug Inspector alleging the commission of offence punishable under Section 18(9)(1) read with Section 27(d) of Drugs and Cosmetics Act, 1940 in connection with the substandard quality of certain tablets manufactured by the petitioners. It could be seen from the impugned order that inspite of providing several opportunities for the appearance of the accused, they did not care to appear before the Trial Court and hence non-bailable warrant was ordered against the accused on 24.10.2019. It is in the meanwhile that the counsel for the petitioners filed an advance petition before the Trial Court to recall the warrant and to consider the petition filed under Section 205 Cr.P.C. The learned Magistrate declined to recall the warrant stating the reason that despite affording several chances over a

period of ten months, the petitioners did not care to appear before the court. As regards the prayer under Section 205 Cr.P.C for granting exemption from personal appearance, the learned Magistrate observed in the impugned order that it would be considered once the accused entered appearance in court.

3. Heard the learned counsel for the petitioners and the learned Additional Director General of Prosecutions representing the State of Kerala.

4. It is argued by the learned counsel for the petitioners that the petitioners are entitled for permanent exemption from appearance before the Trial Court, and that it cannot be insisted that they have to appear at least for the first time for the consideration of their application under Section 205 Cr.P.C. I am not inclined to accept the above argument of the learned counsel for the petitioners since the petitioners cannot claim immunity from the regular course of criminal proceedings which require them to appear before the Trial Court and seek bail before opting for contesting the prosecution in absentia. It is pertinent to note that the offence alleged against the petitioners, is of very serious nature since the manufacture of drugs of substandard quality is a crime which affects the public health and the society at large. As the learned Magistrate, in the impugned order, has left open the right of the petitioners to seek exemption under Section 205 Cr.P.C. once they enter appearance before the Court, it cannot be said that any injustice has been meted out to the petitioners as a result of the said order. Therefore, the present petition filed by the petitioners for quashing and setting aside Annexure-A4 order is devoid of merit.

In the result, the petition is hereby dismissed. However, it is made clear that if the petitioners surrender before the learned Magistrate and file bail application, it shall be considered and disposed of on the same day of their surrender, taking note of the fact that the detention of the petitioners in custody is not required for any purpose related to the prosecution of this case. All pending interlocutory applications will stand closed.