

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

THURSDAY, THE FIFTH DAY OF MAY
TWO THOUSAND AND TWENTY TWO

: PRESENT:

THE HONOURABLE SRI JUSTICE D RAMESH
CRIMINAL PETITION NO: 3402 OF 2022

Between:

1. M/s. Jenburkt Pharmaceuticals Ltd.,
Registered Office at: Nirmala Apartments,
93, Jay Prakash, Road, Andheri (West),
Mumbai – 400 058 Maharashtra,
Plant at: Plot No. 11-12, G.I.D.C.
Phase -1, Bhavnagar Road,
Sihor – 364 240, Gujarat
represented by its authorised Signatory,
Mr. Ashish Shah ... Petitioner / Accused No. 1
2. Mr. Ashish U. Bhuta,
S/o. Mr. Uttam Nandlal Bhuta,
aged 49 years, Chairman and Managing Director of
M/s. Jenburkt Pharmaceuticals Ltd.
Nirmala Apartments,
93, Jay Prakash, Road, Andheri (West),
Mumbai – 400 058 Maharashtra ... Petitioner / Accused No. 2
3. Rameshchandra Jadavjibhai Vora,
S/o. Jadavjibhai Mohanlal Vora,
aged 73 years, Non-Executive and Independent Director
M/s. Jenburkt Pharmaceuticals Ltd
Nirmala Apartments,
93, Jay Prakash, Road, Andheri (West),
Mumbai – 400 058 Maharashtra ... Petitioner / Accused No. 3
4. Arun Rangildas Raskapurwala,
S/o. Rangildas Keshavlal Raskapurwala,
aged 84 years, Non-Executive and Independent Director
M/s. Jenburkt Pharmaceuticals Ltd
Nirmala Apartments,
93, Jay Prakash, Road, Andheri (West),
Mumbai – 400 058 Maharashtra ... Petitioner / Accused No. 4
5. Bharat Vasant. Bhate,
S/o. Vasant Hari Bhate,
aged 73 years, Non-Executive and Independent Director
M/s. Jenburkt Pharmaceuticals Ltd
Nirmala Apartments,
93, Jay Prakash, Road, Andheri (West),
Mumbai – 400 058 Maharashtra ... Petitioner / Accused No. 5

6. Ashish Rasiklal Shah,
S/o. Rasiklal Manilal Shah, aged 57 years,
Company Secretary at M/s. Jenburkt Pharmaceuticals Ltd
Nirmala Apartments,
93, Jay Prakash, Road, Andheri (West),
Mumbai – 400 058 Maharashtra

... Petitioner / Accused No. 6

7. Dilip Harkishandas Bhuta,
S/o. Harkishandas Manilal Bhuta,
aged 70 years, Whole Time Director & CFO
M/s. Jenburkt Pharmaceuticals Ltd
Nirmala Apartments,
93, Jay Prakash, Road, Andheri (West),
Mumbai – 400 058 Maharashtra

... Petitioner / Accused No. 7

8. Dilip Harkishandas Bhuta,
S/o. Harkishandas Manilal Bhuta,
aged 70 years, Whole Time Director & CFO
M/s. Jenburkt Pharmaceuticals Ltd
Nirmala Apartments,
93, Jay Prakash, Road, Andheri (West),
Mumbai – 400 058 Maharashtra

... Petitioner / Accused No. 8

9. Hina Ravindra Mehta,
S/o. Laxmiprasad Gopaldas Dave,
aged 60 years, Non-Executive and Independent Director
M/s. Jenburkt Pharmaceuticals Ltd
Nirmala Apartments,
93, Jay Prakash, Road, Andheri (West),
Mumbai – 400 058 Maharashtra

... Petitioner / Accused No. 9

AND

1. The State of Andhra Pradesh,
Represented by the Drugs Inspector,
Tirupati-Urban, D.No. 2-157/5, 3rd Floor
Bhupal Housing Colony, Ward No. 22
Thimminaidupalyam,
Karakambadi Road, Tirupati

... Respondent No. 1 / Complainant

2. The State of Andhra Pradesh,
Represented by Public Prosecutor
High Court of Judicature for the
State of Andhra Pradesh at Amaravathi

... Respondent No. 2

Petition under Section 482 of Cr.P.C, praying that in the circumstances stated in the grounds filed in support of the Criminal Petition, the High Court may be pleased to call for the records in DCSC No. 4 of 2021 on the file of the I Additional District and Sessions Judge Chittoor and quash the same by allowing the criminal petition as prayed for

IA NO: 2 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in DCSC No. 4 of 2021 on the file of the I Additional District and Sessions Judge Chittoor including appearance of the Petitioners, pending disposal of CRLP 3402 of 2022, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of SRI SHIREEN SETHNA BARIA Advocate for the Petitioner, and of PUBLIC PROSECUTOR for Respondent No.1, the Court made the following.

ORDER:

"The contention of the petitioners is that without taking cognizance under Section 193 Cr.P.C., the Court below issued summons to the petitioners. When the petitioners made an application before the concerned Court, the same was returned saying that no such document is in the bundle.

Learned Assistant Public Prosecutor opposed by saying that as per Section 36 (a)(d) of Drugs and Cosmetics Act, the Sessions Court is of the competent Court and directly they can file a complaint before the Sessions Court concerned and requested time for filing cognizance report.

Learned counsel for the petitioners has relied on the judgment of the Hon'ble Supreme Court reported in between Gangula Ashok and another vs. State of A.P. (2000 (2) Supreme Court Cases 504) wherein the Court has clearly stated that Section 193 of the Code has to be understood in the aforesaid backdrop. The section imposes an interdict on all Courts of Session against taking cognizance of any offence as a court of original jurisdiction. It can take cognizance only if "the case has been committed to it by a Magistrate".

Considering the submissions, there shall be stay of all further proceedings in DCSC No.4 of 2021 on the file of the I Additional District and Sessions Judge, Chittoor".

Sd/- K. SRINIVASA RAJU
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The I Additional District and Sessions Judge Chittoor
2. The Drugs Inspector, State of Andhra Pradesh, Tirupati-Urban, D.No. 2-157/5, 3rd Floor Bhupal Housing Colony, Ward No. 22 Thimminaidupalyam, Karakambadi Road, Tirupati
3. One CC to SRI. SHIREEN SETHNA BARIA Advocate [OPUC]
4. Two CCs to PUBLIC PROSECUTOR, High Court of AP [OUT]
5. One spare copy

HIGH COURT

DRJ

DATED:05/05/2022

ORDER

CRLP.No.3402 of 2022

STAY

