

GAHC010212032025



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./1183/2025

M/S RELIANCE FORMULATION PVT LTD AND 4 ORS.
A COMPANY DULY REGISTERED UNDER PROVISIONS OF THE COMPANIES
ACT, 1956 AND HAVING ITS REGISTERED OFFICE AT 7/2-A, G.I.D.C.
ESTATE, PHASE-1, VATVA, AHMEDABAD-382445, GUJARAT, INDIA AND IS
REPRESENTED BY ITS DULY AUTHORIZED VIVEK R. PANGAM.

2: SHRI MEET NARENDRABHAI PATEL

SON OF NARENDRABHAI PATEL
ONE OF THE DIRECTORS OF M/S RELIANCE FORMULATION PVT. LTD.
A COMPANY DULY REGISTERED UNDER THE PROVISIONS OF THE
COMPANIES ACT
1956 AND HAVING ITS REGISTERED OFFICE AT 7/2-A
G.I.D.C. ESTATE
PHASE-1
VATVA AHMEDABAD-382445
GUJARAT
INDIA.

3: SHRI NARENDRA RAMANLAL PATEL

SON OF RAMANLAL PATEL
ONE OF THE DIRECTORS
OF M/S RELIANCE FORMULATION PVT. LTD.
A COMPANY DULY REGISTERED UNDER THE PROVISIONS OF THE
COMPANIES ACT
1956 AND HAVING ITS REGISTERED OFFICE AT 7/2-A
G.I.D.C. ESTATE
PHASE-1
VATVA AHMEDABAD-382445
GUJARAT
INDIA.

4: SHRI HARSHADBHAI RAMANLAL PATEL

ON OF THE DIRECTORS OF M/S RELIANCE FORMULATION PVT. LTD.
A COMPANY DULY REGISTERED UNDER THE PROVISIONS OF THE
COMPANIES ACT
1956 AND HAVING ITS REGISTERED OFFICE AT 7/2-A
G.I.D.C. ESTATE
PHASE-1
VATVA AHMEDABAD-382445
GUJRAT
INDIA.

5: SMT. PREMILABEN NARENDRA KUMAR PATEL

W/O NARENDRA PATEL
ONE OF THE DIRECTORS OF M/S RELIANCE FORMULATION PVT. LTD.
A COMPANY DULY REGISTERED UNDER THE PROVISIONS OF THE
COMPANIES ACT
1956 AND HAVING ITS REGISTERED OFFICE AT 7/2-A
G.I.D.C. ESTATE
PHASE-1
VATVA AHMEDABAD-382445
GUJRAT
INDIA

VERSUS

THE UNION OF INDIA
REPRESENTED BY SHRI HARISH, DRUGS INSPECTOR, OFFICE OF THE
ASSISTANT DRUGS CONTROLLER (INDAI), CENTRAL DRUGS STANDARD
CONTROL ORGANISATION (C.D.S.C.O.), SUB ZONE GUWAHATI, RDTL
CAMPUS, SIX MILE, PANJABARI ROAD, GUWAHATI-781022.

Advocate for the Petitioner : MS. S KATAKEY, I BHATTACHARYYA, MR A DAS, MR. A
CHETIA

Advocate for the Respondent : DY.S.G.I.,

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 22.09.2025

- 1.** Heard Mr. A. Chetia, learned counsel for the petitioners. Also heard Mr. B. Deka, learned Central Government Counsel appearing for the respondent.
- 2.** This application under Section 528 of BNSS has been filed by the petitioners, namely, *M/s Reliance Formulation Private Limited and four others* impugning the order dated 11.06.2024 passed by the learned Judicial Magistrate First Class, Kamrup(M) Guwahati in C.R. Case No. 391/2024 whereby the cognizance of offence under Section 27(d) of the Drugs and Cosmetics Act, 1940 was taken by the said Court and processes were issued against the present petition.
- 3.** The learned counsel for the petitioners has submitted that the petitioner Nos. 2 to 5 are the Directors of the company i.e., the petitioner No. 1 and they are arrayed as accused Nos. 2 to 5 in the complaint filed by the respondent i.e., Union of India through the Drug Inspector, Office of the Assistant Drugs Controller, Central Drugs Standard Control Organisation, Sub Zone Guwahati under Section 27(d) of the aforesaid Act.
- 4.** The learned counsel for the petitioners has submitted that no accusation has been made against the present petitioner in the complaint filed by the respondent. He submits that the Trial Court has erroneously taken cognizance of the offence in contravention of the provision contained in proviso (2) to Section 34 of the Drugs and Cosmetics Act, 1940 as there is no averment made in the complaint petition that the offence alleged was committed with the knowledge of the present petitioners who are the Directors of the company.

5. The learned counsel for the petitioners has submitted that the Apex Court very recently in the case of "***Shailyamanyu Singh Vs. State of Maharashtra***" [Order dated 22nd July, 2025 in SLP(Criminal) No. 5618/2023] has observed as follows:-

"No doubt, at the stage of taking cognizance, the standard of proof required would be much lower than that required at the stage of final decision of a criminal case. Nevertheless, there definitely has to exist a prima facie allegation in the complaint which can satisfy the Court regarding the consent, connivance or attributable neglect on the part of the Director who is sought to be prosecuted by taking recourse to the concept of vicarious liability as provided under Section 34(2) of the D&C Act."

6. The learned counsel for the petitioners has submitted that in the instant case, no *prima facie* accusation has been levelled in the complaint which would have satisfied the Trial Court regarding the consent, connivance or attributable neglect on the part of the Director who is sought to be prosecuted by taking recourse to the concept of vicarious liability as provided under Section 34(2) of the Drugs and Customs Act, 1940.

7. On the other hand, learned Central Government Counsel has submitted that the Managing Director of a Company is normally answerable for the affairs of the company. However, in the instant case, no name of the Managing Director could be found. Neither same was disclosed to the company when notice under section 18 of the Drugs and Cosmetic Act was issued. He submits that under such circumstances as the accusation in this case is of manufacturing drugs which are not found up to the standard, the petitioners who are the Directors of the company

would be vicariously liable.

8. I have considered the submissions made by the learned counsel for both sides.

9. Issue notice.

10. Since, the learned Central Government Counsel has already appeared, no formal notice need to be issued.

11. However, as he has submitted that he has been handed over the brief only yesterday, some time is granted to seek necessary instructions in this regard.

12. List this matter after four weeks.

13. In the meanwhile, as *prima facie*, it appears that no accusation has been made in the complaint petition which would have satisfied the Trial Court regarding the consent, connivance or attributable neglect on the part of the present petitioners who are the Directors of petitioner No. 1, further proceedings of complaint case bearing C.R. Case No. 391/2024 passed by the learned Judicial Magistrate First Class, Kamrup(M) Guwahati shall remain stayed till next date.

JUDGE

Comparing Assistant