

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MMO No. 925 of 2025

Reserved on: 14.10.2025

Date of Decision: 25.11.2025.

M/s Jackson Laboratory Pvt. Ltd. and another ...Petitioners
Versus

State of H.P. ...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No.

For the Petitioners : Mr Sandep Wadhawan, Advocate,
(through video-conferencing) and
Mr Rohit, Advocate (present in the
Court).

For the Respondent : Mr Lokender Kutlehria, Additional
Advocate General.

Rakesh Kainthla, Judge

The present petition has been filed for quashing of the complaint No. 01/14.12.2024, Filing No.1903/2024, dated 14.12.2024, under the Drugs and Cosmetics Act, titled State of H.P. Vs. M/s Jackson Laboratory Private Limited and others, and consequential proceedings arising out of the same. *(Parties shall*

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience.)

2. Briefly stated, the facts giving rise to the present petition are that the Drugs Inspector (complainant) filed a complaint before the learned Trial Court under Section 18(c), 18(A), 18(a)(i), 17(B)(d) punishable under Sections 27(b)(ii), 28, 27(c) and 27(d) read with Section 36AC of the Drugs and Cosmetics Act, 1940 and the Rules made thereunder. It was asserted that the Drug Inspector, ASI Liyakat Ali, HHC Nardev Singh, HHC Kripal Singh, LC Sunita and independent witness Hans Raj visited the medical store of Karan Singh, situated at Raja-ka-Baag, Nurpur. They did not find any intoxicating drug in the shop. Thereafter, the team visited the house of Karan Singh and searched his house. 50 plastic packets, each containing 100 capsules of Provon Spas and ₹1,83,000/- were recovered. Each capsule contained Paracetamol 400 mg, Diclofenac Sodium 50 mg and Dicyclomine Hydrochloride 10 mg as per the label affixed on its pouch. Karan Singh was asked to produce the licence for possessing the capsules, but he could not produce any licence, even though he claimed that he had a wholesale drug licence. This is violative of Rule 62 of the Drugs and Cosmetics Rules. Drugs

Inspector seized the capsules and the currency notes. Out of 5000 capsules, he retained 400 capsules as a sample on Form-17 and Form-17A. He put the rest of the capsules in a box. He sealed the boxes and the samples. The money was released to Karan as per the order passed by the learned Additional Chief Judicial Magistrate, Nurpur. The custody was obtained from the Court of the learned Additional Chief Judicial Magistrate, Nurpur, District Kangra, HP. The samples were sent to the Government Analyst, Regional Drugs Testing Laboratory, Chandigarh, for detecting Tramadol Hydrochloride. The Government Analyst issued a report mentioning that the sample was found positive for Tramadol Hydrochloride, and Diclofenac Sodium was found to be nil. Hence, the drug fell within the definition of a spurious drug. A notice was issued to Karan Singh directing him to produce the purchase bill. Karan Singh sent a reply mentioning that he had purchased the drugs from Varun Medicos. Notice was issued to Rajinder Kaur, Proprietor of Varun Medicos, who disclosed in the reply that the drugs were supplied by M/s Caremax Formulation. A notice was issued to Caremax Formulation, which denied any sale to Varun Medicos. A fresh notice was issued to submit the purchase bill, and M/s Caremax Formulation again denied the

sale. It was found that Sudhir Kumar was the proprietor of the Firm. Mrs Suman Samra was a competent person. Notices were issued to them, and they sent a reply denying any sale. Notice was issued to M/s Jackson Laboratory Pvt. Ltd., mentioned as the manufacturer of the drugs. M/s Jackson Laboratory Pvt. Ltd. denied that it had manufactured any such drug. A team was sent to the premises of M/s Jackson Laboratory Pvt. Ltd., and it was found that they had obtained the approval for manufacturing Provon Spas. They also produced the batch processing record of Provon Spas, disclosing that the manufacturing of Batch No. C4477 was commenced on 3.9.2013 and finished on 5.9.2013. The size of the batch was 1,00,000 capsules, and 99,000 capsules were sent to J.K. Pharma, which had a godown. Jugal Kishore was one of the partners and a competent person of J.K. Pharma. A notice was sent, but no satisfactory reply was provided. Vijay Kumar Samra, Ramesh Kumar and Jugal Kishore were found to be the partners of M/s J.K. Pharma. The details of the drugs recovered from the house of Karan Singh were the same, except that the date of expiry was changed. Jugal Kishore, Ramesh Kumar and Sudhir Kumar were found to be the Directors of M/s Jackson Laboratory Pvt. Ltd. Sudhir Kumar was one of the

Directors and the manufacturing Chemist responsible for the manufacturing of drugs. A notice was served upon all the Partners of the Firm on 6.4.2022, along with the report of the Government Analyst and the sale invoice. The prosecution sanction was obtained, and the complaint was filed.

3. Being aggrieved by the filing of the complaint, the petitioners have approached the Court for quashing the complaint and consequential proceedings. It has been asserted that the Sessions Court and not the Magistrate is competent to take cognisance and try the complaint. The complaint was filed after the expiry of the shelf life of the drugs in question. The requirements of Sections 23 and 24 of the Drugs and Cosmetics Act were not complied with. The third sample was to be sent to the manufacturer immediately, which was not done in the present case. The Drugs Inspector sent the sample after three months on 31.12.2016. No report of the Analyst was sent to the petitioners, and no opportunity to retest was provided. The Government Analyst was aware of the fact that the petitioners were the manufacturers because their names were mentioned on the packets. The 4th sample was also not sent to the Court before the expiry of the shelf life. It was wrongly mentioned that J.K.

Pharma did not have any licence for sale/purchase. The drugs were not manufactured by the petitioners. Varun Medicos had forged the invoice of Caremax Formulation. The batch No.C-4477 seized by the Drugs Inspector contained the expiry date of August 2016. The petitioners had made a complaint that some manufacturers were manufacturing the drugs in the name of the petitioners. Therefore, it was prayed that the present petition be allowed and the complaint and consequential proceedings arising out of it be quashed.

4. I have heard Mr Sandeep Wadhwan, learned counsel (through video conferencing) and Mr Rohit, learned counsel (present in the Court) for the petitioners and Mr Lokender Kutlehria, learned Additional Advocate General, for the respondent-State.

5. Mr Sandeep Wadhwan, learned counsel for petitioners, submitted that the petitioners are innocent and they were falsely implicated. It was wrongly mentioned in the complaint that they had manufactured the drugs. The complaints regarding the spurious manufacturing of the drugs were made to various authorities in Punjab. The requirements of Sections 23

and 25 of the Drugs Act were not complied with. The complaint was filed after the expiry of the shelf life of the drugs in question, taking away the valuable right of the petitioners to get the sample reanalysed. Therefore, he prayed that the present petition be allowed and the complaint and consequential proceedings arising out of it be quashed.

6. Mr Lokender Kutlehria, learned Additional Advocate General, for the respondent-State, submitted that the petitioners cannot blow hot and cold in the same breath. They cannot deny the manufacturing of the drugs and also claim a copy of the report and 4th part of the sample as the manufacturers. The petitioners had deliberately changed the expiry date on the drugs. The truthfulness or otherwise of the contents of the complaint is not to be seen at this stage. Therefore, he prayed that the present petition be dismissed.

7. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

8. The law relating to quashing of criminal cases was explained by the Hon'ble Supreme Court in *B.N. John v. State of U.P.*, 2025 SCC OnLine SC 7 as under: -

“7. As far as the quashing of criminal cases is concerned, it is now more or less well settled as regards the principles to be applied by the court. In this regard, one may refer to the decision of this Court in *State of Haryana v. Ch. Bhajan Lal, 1992 Supp (1) SCC 335*, wherein this Court has summarised some of the principles under which FIR/complaints/criminal cases could be quashed in the following words:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) *Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the accused.*

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code, except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in

support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable based on which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings, and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to a private and personal grudge.” (emphasis added)

8. Of the aforesaid criteria, clause no. (1), (4) and (6) would be of relevance to us in this case.

In clause (1), it has been mentioned that where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the accused, then the FIR or the complaint can be quashed.

As per clause (4), where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order dated by the Magistrate as contemplated under Section 155 (2) of the CrPC, and in such a situation, the FIR can be quashed.

Similarly, as provided under clause (6), if there is an express legal bar engrafted in any of the provisions of the CrPC or the concerned Act under which the criminal proceedings are instituted, such proceedings can be quashed.”

9. This position was reiterated in *Ajay Malik v. State of Uttarakhand*, 2025 SCC OnLine SC 185, wherein it was observed:

“8. It is well established that a High Court, in exercising its extraordinary powers under Section 482 of the CrPC, may issue orders to prevent the abuse of court processes or to secure the ends of justice. These inherent powers are neither controlled nor limited by any other statutory provision. However, given the broad and profound nature of this authority, the High Court must exercise it sparingly. The conditions for invoking such powers are embedded within Section 482 of the CrPC itself, allowing the High Court to act only in cases of clear abuse of process or where intervention is essential to uphold the ends of justice.

9. It is in this backdrop that this Court, over the course of several decades, has laid down the principles and guidelines that High Courts must follow before quashing criminal proceedings at the threshold, thereby preempting the Prosecution from building its case before the Trial Court. The grounds for quashing, *inter alia*, contemplate the following situations : (i) the criminal complaint has been filed with *mala fides*; (ii) the FIR represents an abuse of the legal process; (iii) no *prima facie* offence is made out; (iv) the dispute is civil in nature; (v.) the complaint contains vague and omnibus allegations;

and (vi) the parties are willing to settle and compound the dispute amicably (*State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335)

10. The present petition is to be decided as per the parameters laid down by the Hon'ble Supreme Court.

11. It was submitted that the learned Judicial Magistrate First Class had no jurisdiction and the matter should have been tried by the learned Sessions Judge. This submission will not help the petitioners. It was laid down by the Hon'ble Supreme Court in *Union of India vs. Ashok Kumar Sharma* 2021 (12) SCC 674 that the Court of Sessions can try the offences punishable under Chapter IV of the Drugs and Cosmetics Act after the case is committed to it. It was observed:-

“Being a special enactment, the manner of dealing with the offences under the Act would be governed by the provisions of the Act. It is to be noted that Section 32 declares that no court inferior to the Court of Session shall try an offence punishable under Chapter IV. *We have noticed that under Section 193 CrPC, no Court of Session can take cognisance of any offence as a court of original jurisdiction unless the case has been committed to it by a Magistrate under CrPC. This is, undoubtedly, subject to the law providing expressly that the Court of Session may take cognisance of any offence as the court of original jurisdiction. There is no provision in the Act that expressly authorises the Special Court, which is the Court of Session, to take cognisance of the offence under Chapter IV. This means that the provisions of Chapters XV and XVI CrPC must be followed in regard to even offences falling under Chapter IV of the Act. Starting with Section 200 of the Act*

dealing with taking of cognisance by a Magistrate on a complaint, including examination of the witnesses produced by the complainant, the dismissal of an unworthy complaint under Section 203 and following the procedure under Section 202 in the case of postponement of issue of process are all steps to be followed. It is true that when the complaint under Section 32 is filed either by the Inspector or by the authorised Gazetted Officer, being public servants under Section 200, the Magistrate is exempted from examining the complainant and witnesses.” (Emphasis supplied)

12. Therefore, in view of the binding precedent of the Hon’ble Supreme Court, the case is to be tried by the learned Sessions Judge, but after its committal.

13. The petitioners have asserted in paragraph 31 of the petition that certain unscrupulous and illegal persons are manufacturing the capsules by faking the labels of authorized manufacturers. It is asserted in paragraph 32 that the petitioner company had made a complaint to the State Drug Controller, Baddi, that certain unscrupulous elements were faking the labels of the petitioner company by copying the batch number from the original medicines. It is asserted in paragraph 33 that the capsules which were manufactured by the petitioner company had the expiry date of August 2016, and they were never sold to any of the persons as mentioned in the complaint. Hence, the petitioner cannot claim to be the manufacturer who is entitled to a copy of

the report of the analysis. Secondly, it was laid down in *Medreich Sterilab Ltd. v. Union of India*, 2004 SCC OnLine Kar 182: ILR 2004 Kar 2545: AIR 2004 Kar 420, that the manufacturer is not entitled to a copy of the report of analysis. It was observed.

14. In so far as the constitutional validity or otherwise of Section 25 of the Act is concerned, the said provision did come up for consideration before the Apex Court in the case of *Amery Pharmaceutical v. State of Rajasthan* 2001 (4) SCC 382. In the said decision, the arguments canvassed by the appellant's learned Counsel were more or less similar to the arguments canvassed by the learned Senior Counsel before this Court. In the said decision, it was contended by the learned Counsel for the appellant that the conclusiveness of the report of the Government Analyst as envisaged in sub-section (3) of Section 25 of the Act would nail the manufacturer with the findings in the report as he would otherwise be disabled from controverting the said findings because he has no right to challenge such findings due to the absence of a portion of the sample with him. It was also contended that since the manufacturer is not entitled to get a copy of the report of the Government Analyst as of right, the manufacturer would be disabled from challenging the correctness of the facts stated in the report and such deprivation would visit him with hard civil consequences, as the facts stated in the report would become conclusive evidence against him and that such a provision which disables an accused from disproving the correctness of the facts contained in a document which would nail him down is unfair and unreasonable, besides being oppressive and that amounts to violation of fundamental right enshrined in Article 21 of the Constitution.

The Apex Court, while answering this specific legal issue, was pleased to point out that:

“24. The extent of the implication of the words “such evidence shall be conclusive” as employed in Section 25(3) of the Act has to be understood now. Section 4 of the Evidence Act says that when one fact is declared by the said Act to be conclusive proof of another “the Court shall, on proof of one fact, regard the other as proved, and shall not allow evidence to be given for the purpose of disproving it”. The expression “conclusive evidence” employed in Section 25(3) of the Act cannot have a different implication as the legislative intention cannot be different. Such an import as for the word “conclusive” in the interpretation of statutory provisions has now come to stay. If so, what would happen if the manufacturer is disabled from challenging the facts contained in the document, which would visit him with drastic consequences when he is arraigned in a trial? Any legal provision that snarls at an indicted person without affording any remedy to him to disprove an item of evidence, which could nail him down, cannot be approved as consistent with the philosophy enshrined in Article 21 of the Constitution. The first effort that courts should embark upon in such a situation is to use the power of interpretation to dilute it to make the provision amenable to Article 21.

25. In our view, the Court should lean towards an interpretation that would avert the consequences of depriving an accused of any remedy against such evidence. He must have the right to disprove or controvert the facts stated in such a document, at least at the first tier. It is possible to interpret the provisions in such a way as to make a remedy available to him. When so interpreted, the position is thus that the conclusiveness meant in Section 25(3) of the Act needs to be read in juxtaposition with the persons referred to in the sub-section. In other words, if any of the persons who receives a copy of the report of the Government Analyst fails to notify his intention to adduce evidence in controversion of the facts stated in the report within

a period of 28 days of the receipt of the report, then such report of the Government Analyst could become conclusive evidence regarding the facts stated therein as against such persons. *But as for an accused, like the manufacturer in the present case, who is not entitled to be supplied with a copy of the report of the Government Analyst, he must have the liberty to challenge the correctness of the facts stated in the report by resorting to any other mode by which such facts can be disproved.* He can also avail himself of the remedy indicated in sub-section (4) of Section 25 of the Act by requesting the Court to send the other portion of the sample remaining in the Court to be tested at the Central Drugs Laboratory. Of course, no Court is under a compulsion to cause the said sample to be so tested if the request is made after a long delay. It is for that purpose that discretion has been conferred on the Court to decide whether such a sample should be sent to the Central Drugs Laboratory on the strength of such a request. However, once the sample is tested at the Central Drugs Laboratory and a report as envisaged in Section 25(4) of the Act is produced in the Court, the conclusiveness mentioned in that sub-section would become incontrovertible.”(emphasis supplied by me)

15. In my view, the observations made by the Apex Court in *Amery Pharmaceutical's case* are a complete answer to the submissions made by learned Senior Counsel Sri B.V. Acharya, for the petitioner company. However, the learned Senior Counsel would contend before me, that the observations made by the Apex Court in the aforesaid decision was with reference to proceedings before a Criminal Court, where a manufacturer of a drug was arrayed as one of the accused and that accused could request the Criminal Court to cause the sample of the drug or cosmetic produced before the Magistrate under sub-section (4) of Section 25 to be sent for test or analysis to the Central Drugs Laboratory. Since such an opportunity was/is available to the accused/manufacturer, according to

the learned Senior Counsel, the Apex Court has observed that the provisions of Section 25 of the Act does not violate Article 21 of the Constitution of India and further mere non-supply of the test samples cannot be said has deprived the manufacturer of the drug an opportunity to defend himself in the proceedings filed before the Magistrate. No doubt it is true that the matter which was before the Apex Court is out of an order made in criminal proceedings, but the matter which was substantially argued and discussed was with regard to the submissions made whether the conclusiveness of the report of the Government Analyst would prejudice the defence of the manufacturer since it has no right to challenge the report and the findings of the Government Analyst due to non-supply of the portion of the sample along with the report of the Drug Analyst. While answering this issue, the Apex Court has specifically observed that in view of the language employed in Section 25 of the Act, the manufacturer is not entitled to a copy of the report of the Drug Analyst and also the test samples collected by the Drug Inspector, but that would not prevent him from challenging the correctness of the facts stated in the report by resorting to any other mode by which facts can be disproved. The Court has also observed that the report of the Government Analyst is conclusive proof against these persons mentioned in sub-section (3) of Section 25 of the Act unless they notify the Drugs Inspector or the Court before which any proceedings are pending that they intend to adduce evidence in controversion of the report and that cannot be conclusive proof against the manufacturer since the statute expressly excludes furnishing of either a portion of the sample of the drug or the report of the Government Analyst. By saying so, the Apex Court has negated the stand of the manufacturer that the provisions of Section 25 of the Act violate Article 21 of the Constitution and thereby the constitutional validity or otherwise of Section 25 of the Act has been sustained by the Apex Court. It is no doubt true that the Apex Court has not noticed whether the provisions of Section 25 of the Act would violate the mandate of Article 14 of the Constitution,

but that aspect of the matter cannot be looked into by this Court, in view of Article 141 of the Constitution of India. It is now well settled that the law enunciated by the Supreme Court is binding and absolute. Its correctness cannot be doubted on the grounds inter alia, of (a) there being another view which was not considered; or (b) was never urged and considered; or (c) the Supreme Court's view being not in tune with “the mores of the day or change of events requiring a change in outlook of the Law”. The laws declared by the Supreme Court are not merely matters of individual opinion; they are products of judicial functioning arrived at on the basis of objective tests, not chances. *The Collector of Kamrup v. Smt. Anandi Debi* [AIR 1987 Gauhati 13]. The Apex Court in the case of *Delhi Cloth and General Mills Co. Ltd. v. Shambhu Nath Mukherji* [(1977) 4 SCC 415: AIR 1978 SC 8.] was pleased to observe that when the Supreme Court has held that Section 10 of the Industrial Disputes Act, 1947, is intra vires, and not violative of Article 14, it is not permissible to raise the objection again on a new ground. It is certainly easy to discover fresh grounds of attack, but that cannot be permitted once the Supreme Court has laid down the law that Section 10 of the Industrial Disputes Act, 1947, does not violate Article 14 of the Constitution.

In a case decided by the Bombay High Court in the case of *Mohandas Issardas v. A.N. Sattanathan* [AIR 1955 Bombay 113], it is stated that once the Supreme Court makes a declaration of law, that is binding on all the subordinate Courts. Principles of ‘obiter’, ‘per incuriam’, and ‘distinguishable on facts’, which may perhaps apply to the decisions of Courts of coordinate jurisdiction, cannot be applied to a declaration of law made by the Supreme Court, and such principles cannot restrict the scope of Article 141 of the Constitution. If a declaration of law has been made by the Supreme Court, it is also not open to the subordinate Courts to hold that the declaration of law is not binding, because, on the facts, the case decided by the Supreme

Court is distinguishable from the case before the subordinate Court.

14. It was further held that only the person from whom the samples were taken and the person whose name and address are furnished under Section 18 of the Drugs and Cosmetics Act are entitled to the reports of the analysis. It was observed:

“18. Provisions of Section 25 of the Act mandate the Drugs Inspector to furnish a copy of the report of the Drugs Inspector only to a person from whom samples of the drug were taken and persons whose name and addresses is furnished under Section 18-A of the Act. The Section also deems that the contents of the report are conclusive of the facts, and such evidence shall be conclusive against those persons alone, if they do not notify the Drugs Inspector in writing within twenty — eight days of the receipt of a copy of the report that they intend to adduce evidence in controversion of the report. The Statute excludes the furnishing of the report of the Government Analyst to the manufacturer, and the Statute also expressly states that the contents of the report shall be evidence of facts therein only against those persons who are expected to be supplied with the report of the Government Analyst, unless they make a request to adduce evidence of controversion of the report. If the Statute had expressly provided that the report of the Government Analyst is also conclusive evidence of facts against the manufacturer, then it could have been said that the provisions are discriminatory, since equals are treated unequally and thereby the provisions are violative of Article 14 of the Constitution. At the cost of repetition, the conclusiveness of the report of the Government Analyst is only against the persons mentioned in sub-section (3) of Section 25 of the Act, and that conclusiveness of the facts stated therein cannot be conclusive evidence against the petitioner company.

15. The complainant filed a complaint against the petitioners for manufacturing spurious drugs. It was held by this Court in *Mukesh Saini v. State of H.P.*, 2024 SCC OnLine HP 2118 that the offence punishable under Section 17B for manufacturing spurious drugs do not require the report of the analysis. It was observed.

“23...Pertinently, the definition of the ‘spurious drugs’ provided under the DAC Act is very wide. Section 17B of the DAC Act provides that a drug shall be deemed to be spurious if it is manufactured under the name which belongs to another drug, or if it is an imitation, or is a substitute for another drug, or if the label or the container bears the name of an individual or the company purporting to be the manufacturer of the drug, which individual or the company is fictitious or does not exist; or if it has been substituted wholly or in part by another drug or substance; or if it purports to be the product of a manufacturer of whom it is not truly a product. Section 17B of the DAC Act reads as under:—

“17B. Spurious drugs.- For the purposes of this Chapter, a drug shall be deemed to be spurious.-

(a) if it is manufactured under a name which belongs to another drug, or

(b) if it is an imitation of, or is a substitute for, another drug or resembles another drug in a manner likely to deceive or bears upon it or its label or container the name of another drug unless it is plainly and conspicuously marked so as to reveal its true character and its lack of identity with such other drug; or

(c) if the label or container bears the name of an individual or company purporting to be the

manufacturer of the drug, which individual or company is fictitious or does not exist; or

(d) if it has been substituted wholly or in part by another drug or substance; or

(e) if it purports to be the product of a manufacturer of whom it is not truly a product.”

24. In view of the above definition for the drug to be spurious, it is not necessary that it should be first subjected to any Chemical examination. It would be deemed to be a spurious drug if any of the above clauses are satisfied. Therefore, this contention of the learned counsel for the petitioner is devoid of any force.” (emphasis supplied)

16. Therefore, the proceedings can continue for being manufacturing spurious drugs even if the report of analysis is taken out of consideration, and the complaint cannot be quashed on the ground that no copy of the report of analysis was supplied to the petitioners and their valuable right to get the drugs reanalysed was lost.

17. It was submitted that there was a delay in sending the sample to the laboratory for its analysis. However, nothing was brought to the notice of this Court to show that a mandatory time frame has been prescribed for the sending and analysis of the sample, and this submission will not help the petitioners.

18. No other point was urged.

19. In view of the above, the present petition fails, and it is dismissed.

20. The observation made herein before shall remain confined to the disposal of the petition and will have no bearing, whatsoever, on the merits of the case.

(Rakesh Kainthla)
Judge

25th November 2025
(Chander)