

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.473 of 2021

1. Sanjiv Rai, aged about 56- year, Managing Director (MD) of M/S Ornate Labs Pvt. Ltd., Bela Industrial Estate, PO:- Ramna, PS:- Bela, District:- Muzaffurpur, Bihar. Pin: 842005. Presently, Resident of Flat No.12, Jagat Balram Apartment, PO:- Patliputra, PS:- Sri Krishna Puri, District:- Patna, Bihar. Pin:- 800013.
2. Binod Kumar Thakur, aged about 60-year, Director of M/S Ornate labs Pvt. Ltd, Bela Industrial Estate, PO:- Ramna, PS:- Bela, District:- Muzaffurpur, Bihar. Pin: 842005. Presently, Resident of Flat No.402 (North), Shyama Apartment, Jagdeo Path, Bailey Road, PO:- Dhanaut, PS:- Rukkanpura, District:- Patna, Bihar. Pin:-801506
3. M/S Ornate Labs Pvt. Ltd., Bela Industrial Estate, PO:- Ramna, PS:- Bela, District:- Muzaffurpur, Bihar. Pin:842005

... Petitioners

Versus

1. The State of Jharkhand
2. Gaurav Kumar Singh, S/o- not know, Drug Inspector, Ranchi - IV, District Food and Drug Control Office, PO:- GPO, PS:- Lower Bazar, District:- Ranchi, Jharkhand. Pin:-834001

... Opposite Parties

For the Petitioners : Mr. Abhishek Krishna Gupta, Advocate
For the State : Mr. Prabhu Dayal Agrawal, Spl.P.P.
Mr. Ashok Kr. Yadav, Sr. SC I

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973 with a prayer to quash the order dated 24.11.2020 passed by the learned

A.J.C.-II, Ranchi whereby and where under the learned A.J.C.-II, Ranchi has taken cognizance against the petitioners for having committed the offence punishable under Section 27 (d) read with Section 18 (a) (i) and 18 (b) of the Drugs and Cosmetics Act, 1940.

3. The brief fact of the case is that the petitioner No.1 is the Managing Director and petitioner No.2 is the Director of the petitioner No.3- which is the company in the name and style of M/S Ornate Labs Pvt. Ltd. and which company inter alia manufactures Obimox-500, the sample of which was collected from the Drug store situated within the campus of Sadar Hospital, Ranchi on 27.11.2019 by the complainant-Drug Inspector. In compliance of the procedure prescribed, the sample was sent to the Government analyst who has reported the same to be a sub-standard quality. The report of the Government analyst was received by the Drug Inspector on 01.06.2020 and on the same day, the Drug Inspector sent the same to the petitioners.

4. Learned counsel for the petitioners submits that the petitioners have no records to show as to on which date they received the copy of the report of the Government analyst dated 29.05.2020, which was sent by the Drug Inspector, to them on 01.06.2020.

5. On the basis of the complaint instituted by the Drug Inspector, the learned Special Judge under the Drugs and Cosmetics Act, 1940 has found *prima facie* materials for the said offence against the petitioners and ordered for issue of summons to them, vide order dated 24.11.2020 in Drugs and Cosmetics Case No.11 of 2020.

6. It is submitted by the learned counsel for the petitioners that nowhere it has been mentioned in the prosecution report that fair price was paid by the

Drug Inspector at the time of collection of the sample. It is next submitted that the petitioners were not supplied with one-fourth part of the collected sample in terms of Section 23 (4) (iii) of the Drugs and Cosmetics Act, 1940. It is next submitted that the petitioners got deprived of their statutory rights to controvert the report of Government analyst by notifying intentions as regards adducing evidence in terms of Section 25 (3) of the Drugs and Cosmetics Act, 1940. It is further submitted that the collection of the sample was not in accordance with law. Hence, it is submitted that the prayer of the petitioners, as prayed for in the instant Cr.M.P., be allowed.

7. Learned counsel appearing for the State vehemently oppose the prayer of the petitioners made in the instant Cr.M.P. and submit that there is direct and specific averment in the complaint itself that the portion of the sample as per law, was sent to the petitioners. It is next submitted that the undisputed fact remains that the Drug Inspector sent the copy of the report of the Government analyst to the petitioners and the undisputed fact also remains that the same was received by the petitioners but the petitioners have deliberately not disclosed the date of the receipt of the same, with ulterior motive. It is next submitted that in terms of Section 25 (3) of the Drugs and Cosmetics Act, 1940, the time period stipulated to controvert the report, was 28 days of the receipt of the copy of the said report but indisputably within 28 days of receipt of the copy of the report of the Government analyst, the petitioners have not notified in writing either to the Drug Inspector or to the court concerned of their intention to adduce evidence in contravention of the report and in the absence of the same being done within 28 days of the receipt of the report of the Government analyst, the report signed by the Government

analyst which has been filed along with the complaint by the Drug Inspector, has become conclusive one and in no uncertain manner it goes to show that the drug is a sub-standard one. It is next submitted that the contention of the petitioners that they have not received the sample or that the sample was not collected as per law, is a question of fact which can be determined only during the trial of the case but at this stage since there is specific averment in the complaint that the sample was collected in compliance with the requirements of law and the portion of the sample was sent as per law, to the petitioners; so there is no scope for considering the defence of the accused-petitioner, by this Court in exercise of its power under section 482 of the Code of Criminal Procedure. It is further submitted that since within 28 days of receipt of the copy of the report of the Government analyst, the petitioners have not notified in writing their intention to adduce evidence in contravention of the report so whether or not they have been supplied with the portion of the sample as per law, is immaterial because the requirement of the sample is only relevant if the person concerned whose name, address and other particulars have been disclosed under Section 18-A of the Drugs and Cosmetics Act, 1940 has notified in writing its intention to adduce evidence in contravention of the report. It is then submitted that since the Government Analyst in this case is the Central Drug Laboratory hence section 25 (4) of the Drugs and Cosmetics Act, 1940 is not attracted in this case and there is no scope for challenging the report of the Government Analyst. It is lastly submitted that this Cr.M.P., being without any merit, be dismissed.

8. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, it is pertinent to mention

here that the petitioners do not dispute receiving the report of the Government analyst which was sent by the complainant- Drug Inspector to the petitioners vide his letter dated 01.06.2020. The only contention of the petitioners is that they do not know when they received the same, which is at best a vexatious contention. The undisputed fact remains that within 28 days of receipt of the copy of the report of the Government analyst, the petitioners have failed to notify in writing either to the complainant- Drug Inspector or the court concerned of their intention to adduce evidence in contravention of the report of the Government analyst, which in categorical terms goes to show that the sample of drug collected, was of sub-standard quality. In the absence of any intention notifying in writing either to the complainant- Drug Inspector or the court concerned of the petitioners to adduce evidence in contravention of the report in terms of Section 25 (3) of the Drugs and Cosmetics Act, 1940, the report of the Government analyst has become conclusive one. Otherwise also the report in this case having been furnished by the Central Drug Laboratory, there is no scope for controverting the same, by the petitioners.

9. So far as the contention of the petitioners that they have not received the portion of the sample even though there is specific averment to that effect in the complaint is concerned, at best the same is a disputed question of fact, for answering which, recording of evidence is essential. Certainly, the same cannot be done by this Court while exercising the jurisdiction under Section 482 of the Cr.P.C. as the same is a subject matter of trial; which is the job of the trial court.

10. Under such circumstances, this Court do not find any merit in this Cr.M.P. Accordingly, this Cr.M.P., being without any merit, is dismissed.

11. In view of disposal of the instant Cr.M.P., the interim relief granted vide order dated 02.11.2021, is vacated.
12. Registry is directed to intimate the court concerned forthwith.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 06th of October, 2025
AFR/ Animesh
Uploaded on- 08/10/2025