

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Case:- CrlM No. 969/2024 in
CRM(M) No. 746/2023

Jasbir Singh Anand

.....Applicant(s)/Petitioner(s)

Through: Mr. Vishal Goel, Advocate

Vs

Union of India

..... Respondent(s)

Through:

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER

19.07.2024

CRLM NO. 969/2024

01. Drug Inspector, Central Drugs Standard Control Organization reckoning himself to be competent came forward with a complaint under section 18 read with section 27 (d) of the Drugs and Cosmetics Act, 1940 against four accused persons with accused No. 1 being the concern M/s Ethicare Laboratories and accused nos. 2 to 4 being its proprietor, manufacturing chemist and Manager Quality Control.

02. This complaint came to be taken cognizance in terms of an order dated 03.09.2014 by the court of learned Chief Judicial Magistrate, Jammu wherein upon being summoned, the accused

No. 2-Jasbir Singh Anand is said to have caused his appearance and the complaint was awaiting service of the other co-accused.

03. During the pendency of the complaint, this Court in CRMC No. 329/2017 titled **“Mohammad Iqbal Mir Vs. State of J&K & anr”** came up with a judgment dated 08.04.2022 with respect to competence of the learned Chief Judicial Magistrate to take cognizance of a criminal complaint with reference to section 18 of the Drugs and Cosmetics Act, 1940 by holding that under section 32 of the said Act, it is only the Sessions Court which is competent to try an offence punishable under Chapter IV (sections 16 to 33-A) of the Drugs and Cosmetics Act, 1940.

04. In the case supra, the complaint was taken cognizance by the Judicial Magistrate Ist Class, Pampore and resulted in quashment of the cognizance taking process.

05. Accused No. 2-Jasbir Singh Anand being the proprietor of accused No. 1-M/s Ethicare Laboratories came to approach this Court with a petition under section 482 of the Code of Criminal Procedure, 1973 seeking quashment of the complaint against the accused persons so preferred before the learned Chief Judicial Magistrate, Jammu.

06. This Court, in terms of an order dated 01.09.2023, came to issue notice in the matter and stayed the further proceedings before the trial magistrate i.e., Chief Judicial Magistrate, Jammu.

07. Petition came to suffer dismissal for non-prosecution in terms of an order dated 27.05.2024 when on date previous thereto i.e., 20.04.2024 counsel for the petitioner was absent.

08. Application-CrIM No. 969/2024 has been preferred by the applicant for seeking recall of the order dated 27.05.2024 citing the reason for non-appearance of the counsel on account of his engagement before a Coordinate Bench and, therefore, resulting in default of appearance at the time of case being called.

09. Given the fact that the jurisdiction of the court to take cognizance in the matter is involved and that being a question of law as such, in the interest of justice, the petition needs to be restored to its original number by recalling the order dated 27.05.2024 and accordingly order dated 27.05.2024 passed by this Court is recalled and the petition is resorted to its original number.

10. Application-CrIM No. 969/2024 is disposed of with a caution to the counsel for the applicant that no such accommodation shall be accommodated in case of any further default in the matter.

11. List the main petition on 02.08.2024.

(RAHUL BHARTI)
JUDGE

JAMMU
19.07.2024
Naresh/Secy