

HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL No.1467 OF 2009

JUDGMENT:

1. The State aggrieved by the acquittal of the respondents 1 to 4/A1 to A4 for the offences under Section 18(a)(i) r/w 18 and 34 punishable under Section 27(d) of Drugs and Cosmetic Act, 1940 vide judgment in CC No.588 of 2006, dated 26.06.2007, the present appeal is filed.

2. The case of the Drug Inspector/P.W.1 is that on 16.12.2004 he visited the premises of M/s.VMR Agencies at Warangal and picked up Reslox-L Capsules manufactured by 1st respondent/A1 of which the 2nd respondent/A2 is the proprietor and sent it to the Drugs Control Laboratory. The said sample was declared as 'not of standard quality' vide analyst report dated 30.04.2005. Accordingly, on 16.05.2005, P.W.1 addressed a letter to M/s.VMR Medical Agencies, who in turn informed that the said drugs were purchased from 1st respondent company. On 30.05.2005, the 1st respondent confirmed the sale to M/s.VMR Medical Agencies and also submitted drug licence. On further probing, the Drug

Inspector found that the 3rd respondent/A3 firm had manufactured the drug and the 1st respondent/A1 firm had distributed the said drug, which was found not of standard quality. Accordingly, P.W.1 Drug Inspector filed complaint dated 26.06.2006 before the I Additional Judicial First Class Magistrate, Warangal.

3. Having taken cognizance of the complaint, the trial Court examined the accused under Section 251 of Cr.P.C and the gist of the allegations was informed to the respondents, who have denied the same.

4. The Drug Inspector examined himself as P.W.;1 and marked Exs.P1 to P26 during the course of his examination. No defence exhibits or material objects are marked.

5. The trial court acquitted the respondents/accused for the reason that, as the sale was completed at Madras, the Court has no jurisdiction to try the case by relying upon the judgment in **Sumit Lal C. Shah v. State of Rajasthan** reported in 1984 Drugs Cases 54. Further the 4th respondent/A4

cannot be prosecuted as no proof is filed that he was responsible for the day to day affairs of A-1 company.

6. Learned Assistant Public Prosecutor submits that the Court cannot refuse to entertain the complaint on the ground that the Court has no jurisdiction. Since the drug was seized at Warangal, the complaint can be filed by the Drug Inspector from where the drug was seized, as such, finding of the trial Court is contrary to law and should be reversed.

7. As seen from the judgment referred to above in Sumit Lal C Shah's case (supra), it is held as follows:

“Section 177 of the Cr. PC lays down that every offence shall ordinarily be inquired into and tried by a court within whose local jurisdiction it was committed. This section is based on the general principle of law that all crime is local. Since the medicine was not manufactured by the accused petitioners within the limits of the local jurisdiction of Chief Judicial Magistrate, Bikaner, it could not be tried by him as against the accused-petitioners. [Sections 178](#) and [179](#) are of no help to the prosecution. The medicine was not sold by the accused-petitioners to M/s Bordia Medical Stores at Nokha. The medicine was sold to M/s Bordia Medical Stores, Nokha by M/s Rajesh Medical Agencies, Jodhpur. The accused-petitioners nowhere come in picture in this sale.”

8. In the light of the aforesaid judgment, since the sale was completed at Madras, the jurisdiction would lie at Madras. There cannot be any doubt regarding the jurisdictional aspect, as such, the complaint is without jurisdiction.

9. In view of the aforesaid discussion, there are no merits in the appeal by the State and liable to be dismissed and accordingly dismissed. As a sequel thereto, miscellaneous applications, if any, shall stand closed.

Date: 18.07.2022
kvs

K.SURENDER, J

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