

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

Criminal Petition No.12115 OF 2017

Between:

Phaarmasia Limited and others

... Petitioners

And

The State of Telangana

Through Public Prosecutor and another. ..Respondents/Complainant

DATE OF JUDGMENT PRONOUNCED :27.12.2023

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

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|---|--|--------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship Wish to see their fair copy of the Judgment? | Yes/No |

K.SURENDER, J

*** THE HON'BLE SRI JUSTICE K. SURENDER**

+ CRL.P. No.12115 of 2017

% Dated 27.12.2023

Phaarmasia Limited and others

... Petitioner

And

\$ The State of Telangana

Through Public Prosecutor and another

Respondents/Complainants

! Counsel for the Petitioners: Sri Eranki Phani Kumar

^ Counsel for the Respondents: Addl. Public Prosecutor

>HEAD NOTE:

? Cases referred

THE HON'BLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.12115 of 2017****ORDER:**

1. This Criminal Petition is filed to quash the proceedings against the petitioners in C.C.No.66 of 2016 on the file of I Additional Judicial First Class Magistrate at Khammam for the offences under Section 8 of Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 (for short 'the Act of 1954'), for the violation of Section 3(d) and punishable under Section 7(a) of the act of 1954, Section 32 of the Drugs and Cosmetics Act, 1940 for violation of Rule 97(1)(b) r/w serial No.31 of Schedule-H of the Drugs and Cosmetics Rule, 1945 and Punishable under Section 27(d) of the Drugs and Cosmetics Act, 1940 (for short, 'the Act of 1940').

2. The allegation is that a contraceptive pill with the trade name E-Zee was being manufactured and sold by these petitioners. The Drug Inspector conducted search of medical store premises and seized the said drug. The allegation is that it is mentioned on the cover of the pill that it is "Emergency Contraceptive Pill", violating Schedule-H of the Drugs and

Cosmetics Rules and also for not mentioning on the label of the tablets “Rx” symbol and “Schedule-H Drug Warning”.

3. Learned counsel appearing for the petitioners would submit that no offence is made out under the Drugs and Cosmetics Act or any other Enactments. The main ground urged by the learned counsel for the petitioners is that a notification was issued by the Ministry of Health vide notification No.S.O.282, dated January, 24, 1961, the date of the gazette notification is 04.02.1961. According to the notification, the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 would not apply to any advertisements in respect of contraceptive pills, which relate to ‘prevention of conception in women’.

4. On the other hand, learned Public Prosecutor representing Drug Inspector would submit that it is for the trial Court to decide after giving an opportunity to the Drug Inspector to adduce evidence.

5. The pill seized is oral emergency contraceptive for women. It is not the case that the pills were manufactured without licence. Having relevant licence and approved by the

licencing authority, the drug was being manufactured. In fact, the Ministry of Health and Family Welfare, New Delhi, have also ordered such pills and the said Drug was being distributed by the Ministry of Health and Family Welfare free of cost. The Government has been advertising regarding Emergency Contraceptive Pill for Women, so as to reduce population and also enable women to plan pregnancy. Production of pills is also undertaken by Government. The drug is neither 'spurious' nor 'not of standard quality'. In the said circumstances, it cannot be said that any of the offences alleged are attracted.

6. In the result, the proceedings against the petitioners in C.C.No.66 of 2016 on the file of I Additional Judicial First Class Magistrate at Khammam, are hereby quashed.

7. Accordingly, the Criminal Petition is allowed. Consequently, miscellaneous applications, if any pending in this criminal petition, shall stand closed.

K.SURENDER, J

Date :27.12.2023

Note: LR copy to be marked.

B/o.kvs

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION Nos.12115 of 2017
Dt.27.12.2023

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