

Presented on : 21 /06/2006.
Registered on : 21/06/2006.
Decided on : 21/11/2016.
Duration. :10Y. 05M.00D.

Exh.No.

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, PUNE

(Presided over by H.M. Bhosale)

REG. CRIMINAL CASE NO. 1831/2006.

The State of Maharashtra through
Shri.S.B.Patil, Drug Inspector,
Food and Drug Administration,
791/93, Lucky Building,
New Guruwar Peth, Pune.

... **Complainant**

- Versus -

- 1.Mr. Vinod Ratilal Shah,
Managing Director of
M/s Iatros Pharmaceuticals Pvt. Ltd,
Office at- 2nd Floor, Sonira Chamber,
Market Yard Road, Gultekadi,
Pune-411037.
Godown at- First Floor, Saraswati,
S.No. 172/10, Fursungi, Tal. Haveli,
Pune.
- 2.M/s Iatros Pharmaceuticals Pvt. Ltd,
Office at- 2nd Floor, Sonira Chamber,
Market Yard Road, Gultekadi,
Pune-411037.
- 3.Mr.Dnyaneswar Jaannath Dhamne,
Managing Director of M/s. Noble Drugs Ltd.
B-22, MIDC, Ambad
Nashik-422010
- 4.Mr. Bhojraj Trimbak Morankar
Manufacturing Chemist of

M/s. Noble Drugs Ltd.
B-22, MIDC, Ambad
Nashik-422010.

5. Shri. Sunil Janardan Padwal
Assist. Manufacturing Chemist of
M/s. Noble Drugs Ltd.
B-22, MIDC, Ambad
Nashik-422010

6. Miss. Vaishali Vishwannath Shinde
Testing Chemist of
M/s. Noble Drugs Ltd.
B-22, MIDC, Ambad
Nashik-422010

7. M/s. Noble Drugs Ltd.
B-22, MIDC, Ambad
Nashik-422010

.. Accused

Offence under section 18(a)(i) read with section 16 punishable under section 27(d) and 34 of the Drugs and Cosmetics Act, 1940.

Mrs. S.C.Kale, the learned APP for the State.
Mr.S.T.Agarwal, the learned advocate for accused.

JUDGMENT

(Delivered on 21st day of November, 2016)

01. This is the complaint filed by Mr.S.B.Patil, Drug Inspector, Pune alleging that accused have committed the offence under section 18(a)(i) read with section 16 punishable under section 27(d) and 34 of the Drugs and Cosmetics Act, 1940.

BRIEF FACTS -

02. It is contended that the complainant is appointed as a Drug Inspector.

Accused no.1 is responsible Director of firm M/s Iatros Pharmaceutical Private Limited, Pune i.e. accused no. 2. Accused no. 3 is responsible Director of M/s Noble Drugs Limited, Nashik i.e. accused no. 7. Accused no. 1 and 2 are engaged in manufacturing of drugs on loan license basis for sale and distribution from accused no. 7. Accused no. 3 to 6 are engaged in manufacturing drugs for sale and distribution in the name of accused no. 7.

03. It is contended that on 28/07/2005 Mr.S.B.Patil, the Drug Inspector visited the premises of M/s Suvichar Distributors, 1154, Sadashiv Peth Pune. He drew sample of Azitru 100 suspension. B.No. NA007, manufacturing date October 2004 and expiry date March 2006, manufactured by accused no. 2. It revealed in the further investigation with accused no. 2 that they have manufactured the said drug under loan license at the premises of accused no.7 and received the same under invoice no. 119/28.10.2004 from accused no.7. The sample was sent for analysis to Drug Control Laboratory. It revealed in the analysis of the said sample by the Government Analyst that same is not of the standard quality as content of Azithromycin in the sample was less than permissible limit (13.05% of the labelled amount).

04. On the basis of this Public Analyst's report the Drug Inspector formed the opinion that the accused have committed the offence under section 18(a)(i) read with section 16 by manufacturing drug of sub standard quality. Accused have challenged the report of Government Analyst. As a result, the another part of sample was sent to Central Drug Laboratory, Calcutta [For short "CDL"]. As per the report of CDL also sample found not of the standard quality as content of Azithromycin in the sample was less than permissible limit (13.88% of the claim).

05. In the result, the present complaint came to be filed alleging that accused have committed the offence under section 18(a)(i) read with section 16

punishable under section 27(d) and 34 of the Drugs and Cosmetics Act, 1940.

06. Accused expressed desire to plead guilty. Today, I have framed the charge (Exh.58) against all accused and read over to them. They admitted charge and expressed desire through their advocate to plead guilty instead of facing the trial. They have voluntarily made statement that they want to plead guilty. Their advocate reiterated their stand. I am satisfied that accused wish to plead guilty voluntarily.

07. Mr.Patil, Assistant Commissioner is present. He submitted that accused have manufactured the sample drug. As per label declaration the percentage of Azithromycin in sample drug is 100 MG, however, in actual analysis it found only 13.88% only. He further submitted that this drug normally in use as antibiotic. Due to less percentage than label declaration, patient will not get relief effectively. Therefore, he submitted that as drug is not injurious to health, maximum fine may be imposed.

08. Per contra, the learned advocate for accused submitted that accused no.1 has retired from the business. Accused no. 7 has stopped the business. This might have been resulted due to want of proper formation or subsequently degradation of the said content. Accused are facing trial from last 10 years. Therefore, considering the contravention, minimum sentence and fine may be imposed.

09. Having considered nature of the offence, to my mind, the percentage of Azithromycin found less than label declaration. The only result of this contravention as per the complainant is that the patient will not get relief immediately and he will require to take more medicine. Mr.Patil submitted that due to passage of time there is possibility of degradation of this content. The degradation is possible if its formation is not proper and want of stability

test. This very situation indicates that even due to degradation for want of proper formation the percentage might have been found less. Accused no. 1 and 3 are the responsible Directors. Accused no. 4 to 6 were in employment of accused no. 7 as a Manufacturing Chemists and Testing Chemist.

10. Thus, considering all these aspects coupled with fact that drug is neither spurious or injurious and accused are facing trial from last 10 years, it would not be proper to keep accused behind bar. They have undertaken that they will take proper care in future. Therefore, it would be proper to direct Drug Inspector to take note of their undertaking and intimate in office accordingly, so, this fact will be part of record.

11. Thus, considering aforesaid reasons coupled with this fact, the following sentence will meet the ends of justice. In the result, I pass the following order.

ORDER

- 1] Accused no.1 to 7 are convicted for the offence under section 18(a)(i) read with section 16 punishable under section 27(d) and 34 of the Drugs and Cosmetics Act, 1940 vide section 241 of the Code of Criminal Procedure.
- 2] Accused no.1 and 3 shall suffer simple imprisonment till rising of the Court and shall pay fine of Rs.50,000/- each, in default, to suffer simple imprisonment for one month.
- 3] Accused no.4 to 6 shall suffer simple imprisonment till rising of the Court and shall pay fine of Rs.30,000/- each, in default, to suffer simple imprisonment for one month.
- 4] The bail bonds furnished by accused stands cancelled.

5] The Drug Inspector is permitted to destroy the seized stock, if any, as it is not fit for use as a drug after expiry date.

Sd/-

(H. M. Bhosale)

Chief Judicial Magistrate, Pune.

Date : 21/11/2016.

I affirm that the contents of this P.D.F file judgment are same word for word as per original Judgment.

Name of Clerk : Smt. P.P. Deo

Court Name : Chief Judicial Magistrate, Pune.

Date of judgment : 21/11/2016.

Judgment Signed by P. O. on : 21/11/2016.

Judgment uploaded on : 24/11/2016.