

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE,  
Kancheepuram District at Chengalpattu.**

**Present:-Mr.M.A.KABEER, M.L.,  
Chief Judicial Magistrate,  
Kancheepuram District at Chengalpattu**

09.09.2019

C.C.No.386 of 2019

State represented by  
the Drug Inspector,  
Chengalpattu I Range/Kancheepuram Range I/c  
Kancheepuram -631501

..... Complainant

Vs

S.Dhinakaran  
S/o Srinivasan  
Proprietor of  
M/s.Dheena Medicals  
No.36A Krishnan street,  
Pillaiyarpalayam  
Kanchipuram

....Accused

*This petition has been brought before me today for final hearing in the presence of M/s.Senthil Kumar, Additional Public Prosecutor for the complainant state, and M/s.E.L.Kannan, counsel for the accused, on hearing both sides and on perusal of documents and after consideration, this court delivers the following*

**JUDGMENT**

*The complainant/State represented by the Drugs Inspector, Chengalpattu I Range/Kancheepuram Range I/c, Kancheepuram has filed the complaint u/s. 200 of Cr.P.C., alleging that the accused person S.Dhinakaran, Proprietor of M/s. Dheena Medicals, Pillayarpalayam has committed the offences u/s.18© of*

*the Drugs and Cosmetics Act 1940 read with Rule 65(2) of the Drugs and Cosmetics Rules 1945, 18© of the Drugs and Cosmetics Act 1940 read with Rule 65(3)(1) of the Drugs and Cosmetics Rules 1945 and 18© of the Drugs and Cosmetics Act 1940 read with Rule 65(4)(3)(i) of the Drugs and Cosmetics Rules 1945 which are punishable u/s. 27(d) of the Drugs and Cosmetics Act, 1940. (Herein after referred as "the Act").*

*2. According to the complainant, during the inspection on 26.09.2017 in the premises of M/s.Dheena Medicals, No.36A,Krishnan street, Pillaiyarpalayam, Kancheepuram in the presence of the accused person who is the proprietor of the said medicals, Mrs.R.Kalaiselvi, Drug Inspector, Kancheepuram I range found that the enrolled registered pharmacist Mrs.V.Siyamala bearing Registration No.30710/A2 was not present there and the sales of the drugs on prescription of registered medical practitioner were effected by the accused person without the supervision of the registered pharmacist. It is the further case of the complainant that the prescription register was not properly maintained from 17.08.2017 to 26.09.2017. The Complainant further alleged that on verification of the purchase, sales records and physical stocks of certain drugs, she found that the drugs were sold without issuing the cash or credit memos. Therefore, the accused person is liable to be convicted under section 27(d) of the Act as she has contravened section 18(c) of the Drugs and Cosmetics Act 1940 r/w 65(2) of Drugs and cosmetics Rules 1945, section 18(c) of the Drugs and Cosmetics Act 1940 r/w 65(3) (1) of Drugs and cosmetics Rules 1945 and section 18(c) of the Drugs and Cosmetics Act 1940 r/w 65(4)(3) (1) of Drugs and cosmetics Rules 1945 .*

3. On filing of the complaint, cognizance was taken and case was registered against the accused person for the offense punishable on 3 counts u/s.27(d) of the Act, and Rules framed there under. Copies have been furnished to accused.

4. On appearance of the accused person on summons, the particulars of the offenses of which he is accused has been stated to him and questioned. But, the accused pleaded not guilty and claimed to be tried.

5. To prove the offenses leveled against the accused person, the complainant got examined as P.w.1 and got exhibited the documents marked as Ex.P1 to P12.

6. The PW1, complainant's Drugs Inspector deposed that as per G.O.(4D) No.20, dated 12.07.2013 he was notified as an inspecting authority under section 21(1) of the Drugs and Cosmetics Act and thereby he was empowered for the same. He further deposed that Mrs.Kalaiselvi his predecessor made an inspection at M/s.Dheena Medicals, No.36A, Krishnan street, Pillaiyarpalayam, Kancheepuram on 26.09.2017. During the said inspection, the accused who is the proprietor the said M/s.Dheena Medicals alone was present.

7. The Pw1 further deposed that the registered pharmacist Mrs. V.Siyamala bearing Registration No. 30710/A2 was not present at the time of inspection and the sales of drugs were effected only by the accused. The Prescription Register was also not maintained for the period from 17.08.2017 to 26.09.2017 and the drugs were sold without issuing cash or credit memos. Therefore, the

*Mrs.Kalaiselvi, Drug Inspector has issued Ex.P1 show cause memo on 26.09.2017 itself by directing the accused to submit the relevant documents for verification. Accordingly, the accused has produced the documents which have been returned to the accused after verification and after obtaining xerox copies of the same on her acknowledgement Ex.P6 dated 26.09.2017. The xerox copies of the documents obtained from the accused have been marked as Ex.P2 to Ex.P5. The violations noticed during inspection were admitted by the accused and to that effect he submitted his written statement dated 26.09.2017.*

*8. Subsequently, Ex.P9 show cause notice dated 27.10.2017 was issued to the accused calling for his explanation on the violations noticed during the course of inspection held on 29.09.2017. For which, the accused has sent his Ex.P.9 reply dated 13.11.2017 stating that the pharmacist was not present due to her illness and he was also under treatment for his heart disease . Since the Ex.P9 explanation was not a satisfactory one, the Pw.1 initiated proceedings against the accused by obtaining sanction Ex.P12 from the Director of Drugs Control and the present complaint has been lodged.*

*9. After recording of the said complainant's evidences, all the incriminating evidence were put to the accused U/s 313 [Cr.P.C.](#) In turn, the accused person admitted the offences leveled against him. He has also filed an admission petition pleading guilty and reported that he has no evidence either oral or documentary.*

*10. Heard and perused the records.*

11. The Pw1 has categorically deposed that the accused himself sold the drugs without the personal supervision of registered pharmacist. He further stated that the prescription register was not properly maintained from 17.08.2017 to 26.09.2017 and some of the drugs were sold without issuing the cash or credit memos. The testimony of the Pw1 and the documents marked by the complainants side would show that the accused had contravened the section 18(c) of the Drugs and Cosmetics Act 1940 r/w 65(2), 65(3) (1) and 65(4)(3) (i) of Drugs and cosmetics Rules 1945. Further, though the accused not pleaded guilty at the initial stage, after trial when he was questioned under section 313 of Cr.P.C., the accused himself admitted the offence. The accused further prayed for awarding lesser punishment stating that he is maintaining all the records and has complied with the deficiencies as pointed out by the complainant's drug Inspector.

12. Considering the age, antecedents, facts and circumstances of the case, this Court is inclined to award lesser punishment to the accused under the proviso of Section 27 (d) of the Drugs and cosmetic Act,1940.

13. In the result, the following sentences are imposed on the accused:-

(i) The accused shall suffer a sentence of imprisonment till the rising of court and to pay a fine of Rs.25,000/- and in default to undergo simple imprisonment for 6 months under section 27(d) of the Act offence committed u/s.18© of the Drugs and Cosmetics Act 1940 r/w Rule 65(2) of the Drugs and Cosmetics Rules 1945.

(ii) *The accused is again sentenced to imprisonment till rising of the court and to pay of Rs.25,000/- and in default to undergo simple imprisonment for 6 months under under section 27(d) of the Act offence committed u/s.18© of the Drugs and Cosmetics Act 1940 r/w Rule 65(3) (1) of the Drugs and Cosmetics Rules 1945.*

(iii) *The accused is further sentenced to imprisonment till rising of the court and to pay of Rs.25,000/- and in default to undergo simple imprisonment for 6 months under under section 27(d) of the Act offence committed u/s.18© of the Drugs and Cosmetics Act 1940 r/w Rule 65(4) (3) (i) of the Drugs and Cosmetics Rules 1945.*

(iv) *The substantive term of imprisonment under each of the above counts need be suffered concurrently. Total fine amount is Rs.75,000/-.*

*This Judgment has been typed by me in my laptop and pronounced by me in the Open Court on this 09<sup>th</sup> day of September 2019.*

*Sd/-M.A.Kabeer  
Chief Judicial Magistrate,  
Kancheepuram District at Chengalpattu*

Prosecution witnesses:-

*PW1 Mr.Nithin kumar*

Defense witnesses:-NIL

Prosecution Exhibits:-

Ex.P1	26.09.2017	Copy of Letter under Section 22(1)(cca) of Drugs and Cosmetics Act 1940
Ex.P2	--	Copy of license
Ex.P3	--	Copy of Prescription register
Ex.P4	--	Copy of sales bills
Ex.P5	--	Copy of Purchase bills
Ex.P6	26.09.2017	Acknowledgement letter
Ex.P7	26.9.2017	Letter of the accused to the Drug Inspector
Ex.P8	27.09.2017	Interim report
Ex.P9	27.10.2017	Show cause notice
Ex.P10	13.11.2017	Reply of the accused
Ex.P11	12.09.2018	Proposal of the Drug Inspector
Ex.P12	03.10.2018	Sanction order

Defence Exhibits: NIL

Material Objects:- NIL

Sd/-M.A.Kabeer  
Chief Judicial Magistrate,  
Kancheepuram District at Chengalpattu