

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH**  
**AT SRINAGAR**

CRM(M) No. 365/2022 CrIM No. 1059/2022

*Reserved On:04.09.2024*  
*Pronounced On:24.09.2024*

Sanjay Chibber  
Through: Mr. Varut Kumar, Advocate.

...Petitioner/Appellant(s)

**Vs.**

UT of Ladakh through Drugs Inspector Kargil  
Through: Mr. T. M. Shamsi, DSGI with  
Ms. Rehana Qayoom, Assisting Counsel.

...Respondent(s)

**CORAM:**

**HON'BLE MR JUSTICE RAJNESH OSWAL, JUDGE**

**ORDER**

1. The proceedings of the complaint titled as "State through Drugs Inspector District Kargil Vs. Ms. Sunita Dhawan and Ors." under Section 18(a)(i) read with 27(d) of the Drugs and Cosmetics Act, 1940 and the order of issuance of process dated 25.03.2019 passed by the court of learned Chief Judicial Magistrate, Kargil (for short 'the trial court') have been impugned by the petitioner on the ground that the respondent has not arrayed the company 'M/s Stride Health Care Pvt. Ltd' as an accused in the complaint and in terms of mandate of Section 19(3) of the Drugs and Cosmetics Act, 1940, the proceedings against the petitioner cannot be continued in view of the admission made by the respondent in the complaint that the Drug in question was acquired from a license manufacturer/distributor and dealer by the company i.e. M/s Stride Health Care Pvt. Ltd and there is no allegation in the complaint that the petitioner had tampered with the seal of packed drug and that the same is also substantiated by the report of Government analyst. It is also urged by the petitioner that in

- a petition filed by accused no. 3 and 4 in the complaint, the coordinate Bench of this court has quashed the proceedings against them on identical grounds vide judgement dated 04.08.2022.
2. The respondent, besides narrating the factual aspects of the case, has also stated that the petitioner had distributed “not of standard quality drug”, as such, the present petition has no merit.
  3. The grounds urged by the petitioner in the present petition have already been considered by a coordinate Bench of this court in the CRM(M) No. 01//2021 titled ‘Neena Gupta Arun, Kumar Gupta Vs. UT of Ladakh’ wherein the accused Nos. 3 and 4 in the complaint had assailed the criminal proceedings arising out of the same complaint on identical grounds.
  4. The case of the petitioner is squarely covered by the judgement 04.08.2022 of a coordinate Bench of this court, therefore on the same grounds the proceedings initiated in the form of complaint titled “State through Drugs Inspector District Kargil Vs. Ms. Sunita Dhawan and Ors.” are quashed qua the petitioner only.
  5. Before parting, this Court would like to note that majority of the prosecutions initiated under the Drugs and Cosmetics Act, 1940 fail at the threshold only, in both the Union Territories of J&K and Ladakh, just because of non-compliance of the procedure envisaged under the Act. This court has come across, number of complaints wherein either the Company is not arrayed as an accused, as in the present case, or the Director(s) is/are arrayed as accused without making any averment in the complaint in respect of his/their role in the commission of offences. The defects pointed out by this court can be taken care of by

providing the proper training to the officers concerned in respect of the technical requirements of law. This court hopes that Commissioner/Secretary, Health and Medical Education Department, Union Territory of Leh, shall examine and look into the concerns shown by this Court and take corrective measures so as to ensure that the complaints under the Drugs and Cosmetics Act, 1940, are not quashed at the initial stage only on account of technical defects .

6. A copy of this order shall be sent to the court of learned Chief Judicial Magistrate, Kargil and Commissioner/Secretary, Health and Medical Education Department, Union Territory of Leh. .
7. Disposed of.

**(RAJNESH OSWAL)**  
**JUDGE**

**SRINAGAR**

24.09.2024

*Ishaq*