2026:PHHC:094444

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-52148-2021
Date of Decision: 13.07.2026
Uploaded on: 13.07.2026

ZEE LABORATORY

... Petitioner

Versus

UNION OF INDIA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. P.S. Ahluwalia, Sr. Advocate with
Mr. Keerat Dhillon, Advocate
for the petitioner.

Mr. Tajeshwar S. Sullar, Sr. Panel Counsel
for the respondent-UoI.

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JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the Complaint Case No.COMA 8-18 dated 01.03.2018 (Annexure P-1) titled as "Union of India Vs. Zee Laboratory" registered under Section 18(a)(i) read with Section 27(c) and Section 27(d) of the Drugs and Cosmetics Act, 1940, the summoning order dated 01.03.2018 (Annexure P-2) under Sections 18(a)(I) read with Section 27(c)(d) of the Drugs and Cosmetics Act, 1940 and all consequential proceedings arising therefrom.

2. The brief facts of the case are that on 02.08.2014, a sample of a drug Zextil 200 (Cefpodoxime tablet IP) [hereinafter referred to as Zextil] bearing sample No.LS/SS/CDG/2014/66, Batch No.01/2016 was drawn by the respondent for test and analysis under Section 23 of the Drugs and

Cosmetics Act, 1940 (for short-the Act') from Civil Hospital, Nawanshahr. The drug was manufactured in February, 2014 and the same was due to expire in January, 2016.

3. The test report of the Government Analyst dated 25.11.2014 declared the sample of the drug as "Not of Standard Quality". It was stated that the sample did not conform with the IP 2010 with respect to 'Dissolution' Cefpodoxime Proxetil calculated as Cefpodoxime.

4. Thereafter, the impugned complaint was filed under Section 18(a)(i) read with Section 27(c) and Section 27(d) of the Act before the Court of CJM, SBS, Nagar Mohali against the petitioner and the pharmacist at Civil Hospital, Nawanshahr. The copy of the complaint dated 01.03.2018 is attached as Annexure P-1 to the present petition.

5. On the filing of the complaint, the accused were ordered to be summoned to face trial under Sections 18(a)(I) read with Section 27(c)(d) of the Drugs and Cosmetics Act, 1940 vide order dated 01.03.2018. The copy of the summoning order dated 01.03.2018 is attached as Annexure P-2 to the present petition.

6. The aforementioned complaint dated 01.03.2018 (Annexure P-1), the summoning order dated 01.03.2018 (Annexure P-2) and all consequential proceedings therefrom have been challenged in the present petition.

7. The learned Senior counsel for the petitioner *inter alia* contends that the respondent has summoned the petitioner under Section 27(c) and

27(d) of the Act. However, the provisions of Section 27(c) of the Act are neither made out nor alleged against the petitioner in the impugned complaint as it is not a case where the allegations against the petitioner are that the drug in question was spurious in nature. In fact, from the complaint itself it is discernable that the test report merely states that the drugs are "Not of Standard Quality", if at all. Therefore, the liability of the petitioner would be Section 27(d) of the Act at best and Section 27(c) of the Act is not made out. Once, Section 27(c) of the Act is not made out, then, as the offence under Section 27(d) of the Act is punishable with imprisonment for a term which may extend to 02 years, in terms of Section 468(2) of Cr.P.C. the complaint ought to have been filed within a period of 03 years from the receipt of the test report. In the instant case, a complaint has been filed after a period of 03 years and 8 months and therefore, the complaint and the summoning order are liable to be quashed. Reliance is placed on the judgments in the case of ***Miteshbhai J. Patel & another Vs. The Drug Inspector & Another, 2025(5) KLT 171***, ***Shailyamanyu Singh Vs. The State of Maharashtra, 2025 INSC 995***, ***M/s JM Laboratories & others Vs. State of Andhra Pradesh & another, 2025(1) RCR (Criminal) 807*** and ***Lalankumar Singh & others Vs. State of Maharashtra, 2022 SCC Online SC 1383***.

8. The learned counsel for the respondent-UoI while referring to the reply dated 02.03.2023 contends that a clarification was sought from the original complainant and he has stated that the Drug Zextil 200 (Cefpodoxime tablets IP) bearing Sample No.LS/SS/CDG/2014/66, Batch

No.ZT-14103, date of manufacturing 02/2014, date of expiry 01/2016 manufactured by M/s Zee Laboratories was found to be "Not of Standard Quality" for the reason that the sample did not conform with the IP 2010 with regard to the 'Dissolution' of Cefpodoxime Proxetil, calculated as Cefpodoxime. The results obtained in the dissolution test were 38.54% w/w to 46.51% w/w, whereas the prescribed limit is not less than 70% w/w. Consequently, the patients are not getting the minimum effective dose, which is likely to cause his/her death or is likely to cause such harm as would amount to grievous hurt, and, therefore, the complaint was filed under Sections 27(c) and 27(d) of the Act. He further contends that there is no delay in filing of the complaint and therefore, the present petition is liable to be dismissed.

9. I have heard the learned counsel for the parties.

10. Before proceeding further in the matter, it would be apposite to examine the relevant provisions of the Act and the same are as under:-

> *"**16. Standards of quality**. —[(1) For the purposes of this Chapter, the expression "standard quality" means—*
> *(a) in relation to a drug, that the drug complies with the standard set out in [the Second Schedule], and*
> *(b) in relation to a cosmetic, that the cosmetic complies with such standard as may be prescribed.]*
> *(2) The [Central Government], after consultation with the Board and after giving by notification in the Official Gazette not less than three months' notice of its intention so to do, may by a like notification add to or otherwise amend [the Second Schedule] for the purposes of this Chapter, and thereupon [the Second Schedule] shall be deemed to be amended accordingly.*

17. Misbranded drugs.—*For the purposes of this Chapter, a drug shall be deemed to be misbranded,—*

(a) if it is so coloured, coated, powdered or polished that damage is concealed or if it is made to appear of better or greater therapeutic value than it really is; or

(b) if it is not labelled in the prescribed manner; or

(c) if its label or container or anything accompanying the drug bears any statement, design or device which makes any false claim for the drug or which is false or misleading in any particular].

17A. Adulterated drugs.— *For the purposes of this Chapter, a drug shall be deemed to be adulterated,—*

(a) if it consists in whole or in part, of any filthy, putrid or decomposed substance; or

(b) if it has been prepared, packed or stored under insanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health; or

(c) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

(d) if it bears or contains, for purposes of colouring only, a colour other than one which is prescribed; or

(e) if it contains any harmful or toxic substance which may render it injurious to health; or

(f) if any substance has been mixed therewith so as to reduce its quality or strength.

17B. Spurious drugs.—*For the purposes of this Chapter, a drug shall be deemed to be spurious,—*

(a) if it is manufactured under a name which belongs to another drug; or

(b) if it is an imitation of, or is a substitute for, another drug or resembles another drug in a manner likely to deceive or bears upon it or upon its label or container the name of another drug unless it is plainly and conspicuously marked so as to reveal its true character and its lack of identity with such other drug; or (c) if the label or

container bears the name of an individual or company purporting to be the manufacturer of the drug, which individual or company is fictitious or does not exist; or

(d) if it has been substituted wholly or in part by another drug or substance; or

(e) if it purports to be the product of a manufacturer of whom it is not truly a product.

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27. Penalty for manufacture, sale, etc., of drugs in contravention of this Chapter*.—Whoever, himself or by any other person on his behalf, manufactures for sale or for distribution, or sells, or stocks or exhibits or offers for sale or distributes,—*

(a) any drug deemed to be adulterated under section 17A or spurious under section [17B and which] when used by any person for or in the diagnosis, treatment, mitigation, or prevention of any disease or disorder is likely to cause his death or is likely to cause such harm on his body as would amount to grievous hurt within the meaning of section 320 of the Indian Penal Code (45 of 1860) solely on account of such drug being adulterated or spurious or not of standard quality, as the case may be, shall be [punishable with imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than ten lakh rupees or three times value of the drugs confiscated, whichever is more]:

Provided that the fine imposed on and released from, the person convicted under this clause shall be paid, by way of compensation, to the person who had used the adulterated or spurious drugs referred to in this clause:

Provided further that where the use of the adulterated or, spurious drugs referred to in this clause has caused the death of a person who used such drugs, the fine imposed on and realised from, the person convicted under this clause, shall be paid to the relative of the person who had died due to the use of the adulterated or spurious drugs referred to in this clause.

Explanation.—For the purposes of the second proviso, the expression "relative" means—

(i) spouse of the deceased person; or

(ii) a minor legitimate son, and unmarried legitimate daughter and a widowed mother; or

(iii) parent of the minor victim; or

(iv) if wholly dependent on the earnings of the deceased person at the time of his death, a son or a daughter who has attained the age of eighteen years; or

(v) any person, if wholly or in part, dependent on the earnings of the deceased person at the time of his death,—

(a) the parent; or

(b) a minor brother or an unmarried sister; or

(c) a widowed daughter-in-law; or

(d) a widowed sister; or

(e) a minor child of a pre-deceased son; or

(f) a minor child of a pre-deceased daughter where no parent of the child is alive; or

(g) the paternal grandparent if no parent of the member is alive;]

(b) any drug—

(i) deemed to be adulterated under section 17A but not being a drug referred to in clause (a), or

(ii) without a valid licence as required under clause (c) of section 18, shall be punishable with imprisonment for a term which shall 1 [not be less than three years but which may extend to five years and with fine which shall not be less than one lakh rupees or three times the value of the drugs confiscated, whichever is more]:

Provided that the Court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of [less than three years and of fine of less than one lakh rupees];

(c) any drug deemed to be spurious under section 17B, but not being a drug referred to in clause (a) shall be punishable with imprisonment for a term which shall [not less than seven years but which may extend to imprisonment for life and with fine which shall not be three lakh rupees or three times the value of the drugs confiscated, whichever is more]:

Provided that the Court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of [less than seven years but not less than three years and of fine of less than one lakh rupees];

(d) any drug, other than a drug referred to in clause (a) or clause (b) or clause (c), in contravention of any other provision of this Chapter or any rule made thereunder, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to two years [and with fine which shall not be less than twenty thousand rupees]:

Provided that the Court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than one year.

11. Section 468 Cr.P.C, reads as under:

***468. Bar to taking cognizance after lapse of the period of limitation**.—(1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.*

(2) The period of limitation shall be—

(a) six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

12. Coming back to the facts of the instant case, a bare reading of the complaint would reveal that as per the test report the drug Zextil 200 bearing Sample N.LS/SS/CDG/2014/66, Batch No.ZT-14103, date of manufacturing 02/2014, date of expiry 01/2016, manufactured by M/s Zee Laboratories was declared as “Not of Standard Quality” vide report dated 25.11.2014 for the reason that the sample did not conform to the IP 200 with respect to ‘Dissolution” Cefpodoxime Proteil calculated as Cefpodoxime. The results obtained in dissolution were 38.54% w/w to 46.51% w/w while the limit is not less than 70% w/w. There is absolutely nothing in the complaint to suggest that the drug was spurious under Section 17(b) of the Act and therefore, the offence was punishable under Section 27(c) of the Act as well where the imprisonment is for a term not less than 7 years but could extend to life. The contention of the learned counsel for the respondent that as the drug was of “not standard quality”, its efficacy was less and therefore consumption of the drug could cause death or grievous hurt thereby making the petitioner liable under Section 27(a) and 27(c) of the Act cannot be accepted. Firstly, on account of the fact that no such allegation has been levelled in the complaint and secondly, if the said argument was to be accepted, then every case of a drug not being of standard quality would be punishable under Section 27(a) or 27(c) of the Act making Section 27(d) of the Act redundant. In fact, Section 27(a) of the Act would apply to a case where the drugs are adulterated under Section 17(A) of the Act, spurious under Section 17(B) of the Act or not of standard quality but additionally, all these violations were

likely to cause bodily harm or death of the patient. Similarly, where the drugs are adulterated under Section 17(A) of the Act or spurious under Section 17(B) of the Act but are not likely to cause death or illness of the patient then the punishment would be under Section 27(b) and 27(c) of the Act. Therefore, in a case where the drug is stated to be "not of a standard quality" and nothing more, punishment would be under Section 27(d) of the Act alone.

13. In view of the above discussion, it is apparent that once punishment of imprisonment could extend to 02 years under Section 27(d) of the Act then in terms of Section 468 Cr.P.C., the complaint must be filed within a period of 03 years from the date of the commission of the offence. In the present case, it is not disputed that the samples were collected on 02.08.2014 and the test report is dated 25.11.2014. However, the impugned complaint was filed by the respondent on 01.03.2018 after a delay of 03 years and 03 months from the date of the test report. This is fatal to the case of the respondent.

14. In fact, when this matter had come up for hearing on 14.12.2021, a Coordinate Bench of this Court had passed the following order:-

> *"Learned counsel for the petitioner inter alia contends that the petitioner is sought to be prosecuted for having manufactured a drug not conforming to the prescribed standards which is an offence punishable under Section 27 (d) of the Drugs and Cosmetics Act, 1940 (for short - the Act); however, the impugned complaint has been filed and through the impugned summoning order the petitioner has also been summoned under Section 27 (c) of the Act but since, admittedly, the drug in question was not spurious and not dangerous to life the same could have not been done as Section 27*

(c) can be invoked only in case of a spurious drug as defined under Section 17-B of the Act; assuming that the petitioner could be summoned under Section 27(c) of the Act, though not admitting the same, in that case such summons could have not been issued by the Magistrate as the cognizance of offence under Section 27 (c) of the Act can only be taken by a Special Court and that the petitioner could have also not been summoned under Section 27 (d) of the Act as the same was barred by limitation prescribed under Section 468 (2) Cr.P.C. since the report which formed the basis of the complaint is dated 25.11.2014 and the impugned complaint was presented before the Trial Court on 01.03.2018.

Notice of motion.

Notice regarding stay as well.

Ms. Sharmila Sharma, Senior Panel Counsel, Union of India accepts notice on behalf of the respondent.

For arguments, adjourned to 17.01.2022."

15. Keeping in view the aforementioned facts and circumstances and in view of the judgments relied upon by the petitioner (supra), the complaint has been filed beyond the limitation and therefore, the Complaint dated 01.03.2018 (Annexure P-1), the summoning order dated 01.03.2018 (Annexure P-2) and all consequential proceedings arising therefrom stand quashed.

(JASJIT SINGH BEDI)
JUDGE

13.07.2026
JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No