

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO(S).....OF 2025
(@SLP(CRL.) NO(S). 3662-3663/2024)

MITESHBHAI J. PATEL
AND ANR.

...APPELLANTS

VERSUS

THE DRUG INSPECTOR AND ANR.

...RESPONDENTS

ORDER

1. Leave granted.
2. The present appeals arise from the common judgment and final order dated 05.12.2023 passed by Hon'ble High Court of Kerala at Ernakulam in Cr. Rev. Petition Nos. 276 and 278 of 2018 wherein the Court has affirmed the view of the Trial Court by which the complaints were said to be within the period of limitation.
3. The facts giving rise to the present appeals are as follows:
 - 3.1. The respondent Drug Inspector drew samples of two batches of a drug named Rabeprazole Tablets from a medical shop named City Medicals in Kozhikode, Kerala on 29.01.2010. The said drug is manufactured by the company named Indica Laboratories (Pvt.) Ltd. of which the appellants are the directors.

- 3.2. One sealed portion of the drug was sent to a Government Testing Laboratory for the purpose of testing. Reports were obtained on 30.03.2010 and 09.04.2010 respectively disclosing that the drug was not of the standard quality as it does not comply with the test 'Related Substances and Assay'.
- 3.3. Thereafter, the respondent-Drug Inspector filed two complaints, bearing no. CC 1/2014 and CC 2/2024 under section 32 of of the Drugs and Cosmetics Act 1940¹ against the appellants, alleging, *inter alia*, commission of an offence for the violation of section 18(a)(i) of the Act punishable under section 27(d) of the Act for selling sub-standard quality drug.
- 3.4. Charges were framed against the appellants under section 18(a)(i) r/w section 27(d) of the Act.
- 3.5. The appellants preferred two Criminal Miscellaneous Petitions (Cr.MP), bearing No. 3292/2017 in CC No. 1/2014 and No. 3292/2017 in CC No. 2/2014, praying that further proceedings are not maintainable on the ground that cognizance was taken after the expiry of the limitation period as prescribed under Section 468(2)(c) of the Code of Criminal Procedure, 1973² as the samples were collected on 20.01.2010 and

1 The 1940 Act

2 CrPC

29.01.2010 and subsequently analysis report was obtained on 30.03.2010 and 09.04.2010. However, the complaint was filed by the respondent on 24.06.2013 and 03.07.2013 after a period of three years.

3.6. The Trial Court *vide* order dated 01.02.2018 dismissed both the applications and returned the finding that there was no delay since the time taken to send out the notice of prosecution as well as in the collection of details of the appellants had to be excluded and thus, both the complaints were well within the period of limitation.

3.7. Aggrieved, the appellants assailed the aforesaid order of the Trial Court in two separate criminal revision petitions, bearing no. 276 of 2018 and no. 282 of 2018 before the High Court.

4. The High Court *vide* order dated 05.12.2023 upheld the view of the Trial Court to be correct by which it was observed that there was no delay since the period for giving notice of prosecution and obtaining the details of the accused had to be excluded.

5. We have heard learned counsel for the parties and have gone through the material placed on record.

6. The only question that needs determination in the present case is whether the complaints filed by the respondents are barred by limitation or not as prescribed under the CrPC.

7. Section 468(2) of the Code of Criminal Procedure prescribes the period of limitation and states that for any offence, which is punishable with a term exceeding one year but not exceeding three years, the period of limitation shall be three years. The punishment prescribed under Section 27 of the 1940 Act for the offence of manufacturing or distributing sub-standard drugs is three years. Therefore, any complaint disclosing such an offence ought to have been made within a period of three years. Section 469(a) of CrPC provides that the period of limitation in relation to an offence commences on the date of the offence.

8. In the present case, it is not disputed that the complaints were filed much later than three years from the date of the reports submitted by the Drug Analyst. As is the nature of this case, an offence would be made out only after the report of the Drug Analyst is received. As the Drug Analyst report in the present case was received on 30.03.2010 and 09.04.2010, therefore, the limitation period by virtue of Section 469(a) of CrPC shall commence from that respective date when the said reports when received. The complaint is filed by the Respondents only on 24.06.2013 and 03.07.2013, which is beyond the statutory time limit.

9. Thus, the reasoning given by the Trial Court and the High Court that certain delays undertaken for the purposes of ascertaining the constitutional particulars of the appellant's company have to be condoned, is unsustainable in the eyes of law. As per the application of section 468 CrPC, the period of limitation which began to run on the date when the report was received, the same being the date of offence, that is, 30.03.2010 and 09.04.2010, would come to an end in March, 2013 and April 2013 respectively. The evidence on record clearly states that the requisites such as the details of the manufacturing company required for initiating proceedings under the 1940 Act are present in the Government Analyst Report in Form-13 which was received by the respondent on the above-mentioned dates. The same was even forwarded to the manufacturing company on 06.04.2010 and 24.11.2010. Therefore, it cannot be denied that the complainants were well aware about the particulars of the company from the very beginning. The explanation given by the High Court and the Trial Court, which upholds the reasoning that it took the complainant more than three years to collect the particulars is completely untenable. The spirit of the law on limitation lies in the maxim *vigilantibus non dormientibus jura subveniunt*. Law helps the vigilant, not the indolent.

10. In addition to this, the complainant has not raised any plea requesting either condonation of delay or exclusion of time before the Court explaining the delay in filing the

complaint. Both the Courts below have exceeded their power in awarding a benefit that was never claimed by the respondents.

11. The period of limitation of three years prescribed under CrPC was adequately long enough for the complainant to initiate proceedings against the appellants. The requirements to be fulfilled under the 1940 Act with respect to details of the manufacturing company could have been easily complied with in the statutory time frame.
12. In view of the above discussion, we are of the firm view that the impugned proceedings were barred by limitation and thus deserve to be quashed.
13. Although other grounds such as not conducting a mandatory enquiry as per Section 202 CrPC were raised, we are not inclined to deal with them since the ground of limitation is good enough to allow the appeal.
14. Accordingly, the appeals stand allowed. The impugned judgment of the High Court is set aside and the proceedings arising from the complaint are quashed.
15. Pending application(s), if any, shall be disposed of.

.....**J.**

[VIKRAM NATH]

.....J.

[SANDEEP MEHTA]

NEW DELHI

JULY 29, 2025

ITEM NO.12

COURT NO.3

SECTION II-D

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 3662-3663/2024

[Arising out of impugned final judgment and order dated 05-12-2023 in CRLRP No. 276/2018 and in CRLRP No. 282/2018 passed by the High Court of Kerala at Ernakulam]

MITESHBHAI J. PATEL & ANR.

Petitioner(s)

VERSUS

THE DRUG INSPECTOR & ANR.
FOR ADMISSION

Respondent(s)

Date : 29-07-2025 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE VIKRAM NATH
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s) : Mr. Abid Ali Beeran P, AOR
Mr. Sarath S Janardanan, Adv.
Mr. Anand Thumbayil, Adv.
Mr. Sriram P, Adv.
Ms. Namita Kumari, Adv.
Ms. Vishnupriya P Govind, Adv.

For Respondent(s) : Mr. P.V. Surendranath, Sr. Adv.
Mr. Harshad V. Hameed, AOR
Mr. Dileep Poolakkot, Adv.
Mrs. Ashly Harshad, Adv.
Mr. Sawan Kumar Shukla, Adv.
Ms. Lekha Sudhakaran, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals stand allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(SONIA BHASIN)
ASSISTANT REGISTRAR-CUM-PS

(RANJANA SHAILEY)
ASSISTANT REGISTRAR

[Signed order is placed on the file]