

(2002) 07 P&H CK 0024

High Court Of Punjab And Haryana At Chandigarh**Case No:** Criminal Miscellaneous No. 4359-M of 1994

Dr. L.C. Rohella and Another

APPELLANT

Vs

The State of Punjab

RESPONDENT

Date of Decision: July 12, 2002**Acts Referred:**

- Insecticides Act, 1968 - Section 3

Citation: (2003) 133 PLR 195**Hon'ble Judges:** Viney Mittal, J**Bench:** Single Bench**Advocate:** Arun Nehra, for the Appellant; H.P. Singh Raja, A.A.G., Punjab, for the Respondent**Final Decision:** Allowed

Judgement

Viney Mittal, J.

The present Criminal Misc. No. 4359-M of 1994 has been filed u/s 482 of the Cr.P.C. by the two petitioners namely Dr. L.C. Rohella and R.G. Aggarwal. The prayer has been made for quashing the complaint Annexure P-4 pending in the Court of Chief Judicial Magistrate, Jalandhar, which had been tiled under the provisions of Section 33 of the Insecticide Act, 1968 read with Rule 27(5) of Insecticide Rules, 1971. A copy of the aforesaid complaint has been attached as Annexure P-4 with the present petition.

2. Petitioner No. 1 Dr. L.C. Rohella was at the relevant time employed as Quality Control Manager whereas petitioner No.2 R.G. Aggarwal was the Managing Director of M/s Northern Minerals Ltd. The complaint had been filed by the State through Agriculture Inspector, Gurmeet Singh on August 5, 1992 with the allegations that M/s Kisan Seed Store, Kala Lakra, Teh. and Distt, Jalandhar, was dealing in Pesticides/Insecticides and they were supplier of aforesaid insecticides by M/s Northern Minerals Ltd. New Delhi. It was further stated in the complaint that the

sample was taken of the insecticide from M/s Kisan Seed Store and was sent for testing and ultimately, it was found that there was variation in the active ingredients and, therefore, the aforesaid sample was declared as misbranded under the provisions of Section 3(k)(i) of the Insecticide Act, 1968.

3. Sh. Arun Nehra, learned counsel for the petitioners has sought the quashing of the complaint on the ground that in fact prior sanction was required under the provisions of Section 31 of the Insecticide Act, 1968 and the aforesaid provisions contained in Section 31 were mandatory and no cognizance of the offences could have taken nor the trial in the case commenced. For the proper appreciation of the controversy, the provisions of Section 31 of the Insecticide Act, 1968 are re-produced below:

31. Cognizance and trial of offences - (1) No prosecution for an offence under this Act shall be instituted except by, or with the written consent of, the State Government or a person authorised in this behalf by the State Government.

(2) No court inferior to that of a (Metropolitan Magistrate or a Judicial Magistrate of the first class) shall try any offence under this Act.

4. In fact Sh. Nehra has brought to my notice the written consent dated May 13, 1991, which has been appended as Annexure P-3 with the present petition. A perusal of the aforesaid consent makes it clear that it was to initiate legal proceedings only qua :-

i) M/s Kisan Seed Store

ii) M/s Jalandhar Iron and Paint Store.

iii) M/s Northern Minerals Ltd.

5. Thus it is clear that there was absolutely no consent granted by the competent authority under the provisions of Section 31 of the Act with regard to initiation of legal proceedings against the present petitioners. In support of his contention Sh. Nehra has placed reliance on the case of V.K. Pahwa v. State of Punjab 2002(1) RCR (Cri.) 389. have gone through the aforesaid judgment, The said judgment fully supports the contention of learned counsel for the petitioners. Therefore, in this view of the matter, I allow the present petition and quash the complaint insofar as the present petitioners are concerned.

6. However, it is made clear that quashing of the present complaint would not have any effect upon continuation of the proceedings against the remaining accused.