

(2008) 09 P&H CK 0167

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. M-3165 of 2008

Mohinder Mohan and another

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: Sept. 4, 2008

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Insecticides Act, 1968 - Section 17, 18, 29, 3(k)(i), 30(3)

Citation: (2008) 4 RCR(Criminal) 567

Hon'ble Judges: Ajai Lamba, J

Bench: Single Bench

Advocate: Rakesh Verma, for the Appellant; Kamaldeep Singh Sidhu, D.A.G., Punjab, for the Respondent

Final Decision: Allowed

Judgement

Ajai Lamba, J.

This petition has been filed u/s 482 Cr.P.C. for quashing complaint under Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968 read with Rule 27(5) of the Insecticides Rules, 1971, titled "State v. M/s Janta Seeds Corporation and others" pending in the Court of Sub Divisional Judicial Magistrate, Pathankot (Annexure P-1); summoning order (Annexure P-2) and subsequent proceedings.

Paras 2 and 3 of the petition read as under:

"2. That the petitioner-firm is the licensee under Insecticides Act, 1968 to deal in various kinds of insecticides and pesticides of registered and approved manufactured companies by Govt. of India as well as by Govt. of Punjab. The petitioner-firm sells only sealed and packet insecticides/pesticides as packed by registered manufacturing companies, who are authorized by Govt. of Punjab to sell their products in the State of Punjab and whose addition have been made by Licensing-Authority in the license of the petitioner-firm.

3. That as per complainant version on 06.05.2001 he drew a sample of one insecticide i.e. Fenvelerate 0.4% DP bearing Batch No. J-9 Mfg. 16-10-2002 and Expiry 17-09-2004 out of 25Kg. originally sealed and packet container while withdrawing 750 gm. lying properly from the shop premises of the petitioner- firm as manufactured by M/s Jai Shree Agro Industries Ltd. Sonapat. The said manufacturing company i.e. M/s Jai Shree Agro Industries Ltd. Sonapat is the registered and authorized manufacturing company by Govt. of Punjab to sell its products in the state of Punjab."

2. In the reply filed, the contents of Para 2 have been admitted being a matter of record. In Para 3 of the reply, it has been admitted that the manufacturing concern was an authorised manufacturing company to sell its products in Punjab.

3. Learned counsel for the petitioner has also referred to Para 6 of the complaint. The specific case of the complainant is that sample was drawn from a sealed packet. There is nothing on the record to indicate that the product was not stored properly.

4. In view of the admitted fact, it becomes clear that the petitioners are the licensees. The petitioners had acquired the insecticides from a duly licensed manufacturer/distributor. Since the sample was drawn from a sealed packet, the petitioners could not know with reasonable diligence that there was any contravention of provisions of the Insecticides Act, 1968 (for short, 'the Act'). There is nothing to indicate from the complaint that the insecticide while in possession of the petitioners was improperly stored.

5. When the facts are considered in conjunction with provisions of Section 30(3) of the Act, no case against the petitioners can be spelt out.

6. In view of the above, continuance of proceedings against the petitioner would be an abuse of process of Court and law, and increase the harassment of the petitioners as the documents make it evident that they have not committed the offences as alleged.

The petition is allowed.

7. Complaint under Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968 read with Rule 27(5) of the Insecticides Rules, 1971, titled 'State v. M/s Janta Seeds Corporation and others' pending in the Court of Sub Divisional Judicial Magistrate, Pathankot (Annexure P-1); summoning order (Annexure P-2) and subsequent proceedings are quashed.