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R. Srikrishnan Vs State of Haryana and Another

Criminal Miscellaneous No. 24897-M of 2006

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Dec. 13, 2007

Acts Referred:
Criminal Procedure Code, 1973 (CrPC) â€" Section 482#Insecticides Act, 1968 â€" Section 17, 18, 29, 3(k)(i), 33

Citation: (2008) 2 RCR(Criminal) 748

Hon'ble Judges: L.N. Mittal, J

Bench: Single Bench

Advocate: Arun Chandra, for the Appellant; Ajay Ghanghas, Dy. Advocate General, Haryana, for the Respondent

Final Decision: Allowed

Judgement

L.N. Mittal, J.
R. Srikrishnan has filed the instant petition u/s 482 of the Code of Criminal Procedure for quashing complaint No. 2502

dated 5.8.1999 (Annexure P-1) pending in the Court of learned Chief Judicial Magistrate, Hisar under Sections 3(k)(i), 17, 18 and 33 punishable

u/s 29 of the Insecticides Act, 1968 along with summoning order dated 5.8.1999 (Annexure P-2) and all consequent proceedings arising

therefrom.

2. According to the prosecution version, sample of pesticide dimethoate 30% EC manufactured by M/s. E.I.D. Parry (India) Ltd., where the

Petitioner is working as Executive, Quality Control, was seized from the dealer by Assistant Plant Protection Officer and was found to be

misbranded having 27.13% dimethoate as against the declared/labelled 30%. Accordingly, impugned complaint (Annexure P-1) u/s 29 of the

Insecticide Act 1968 and the Rules made thereunder for violation of various provisions of the Insecticides Act, was instituted against the Petitioner

and the aforesaid manufacturer.

3. On Petitioner''s application, second part of the sample was ordered to be sent to Central Insecticides Laboratory, Faridabad.

4. Learned Counsel for the Petitioner contends that for no fault on the part of the Petitioner, he has been deprived of his valuable right to get the

second part of the sample analyzed from Central Insecticides Laboratory, and therefore, the Petitioner cannot be prosecuted. There is

considerable merit in the contention. The Petitioner has a right to get the second sample analysed from the Central Insecticides Laboratory,

Faridabad, so as to establish his innocence, but second part of the sample sent by Chief Judicial Magistrate, to Central Insecticides Laboratory,

Faridabad never reached the said Laboratory. The Petitioner has thus been deprived of his aforesaid valuable right and, therefore, he cannot be

prosecuted for the alleged offence on the basis of the report of Public Analyst alone.

5. In spite of several opportunities, the State has not been able to trace the whereabouts of the second part of the sample allegedly sent by Chief

Judicial Magistrate to the Central Insecticides Laboratory, Faridabad. However, even if the said second part of the sample is now traced, it would

serve no purpose because shelf life of the pesticide lapsed long ago as the sample as seized on 10.7.1998 i.e. more than nine years ago and its

(sic) that the second part of the sample has not been analysed by Central Insecticides Laboratory, Faridabad in spite of requisite application

moved by the Petitioner which was allowed by learned Chief Judicial Magistrate. In view of the aforesaid, instant petition is allowed and the

impugned complaint (Annexure P-1) along with all consequential proceedings arising therefrom is quashed.