

(2003) 05 P&H CK 0200

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. 2562-M of 2002

M/s S.S. Aggarwal and Co. and
Others

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: May 2, 2003

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Insecticides Act, 1968 - Section 14, 15, 17, 18, 29

Citation: (2003) 6 CriminalCC 253 : (2003) 3 RCR(Criminal) 650

Hon'ble Judges: Kiran Anand Lall, J

Bench: Single Bench

Advocate: Ravinder Chopra, with Mr. Vibhor Bansal, for the Appellant; IPS Sidhu, DAG, Punjab, for the Respondent

Final Decision: Allowed

Judgement

Kiran Anand Lall, J.

This is a petition u/s 482 Cr. P.C. for quashing of complaint filed against the petitioners, under Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticides Acts, 1968 and Rules 27(5) of the Insecticides Rules, 1971, by the Insecticide Inspector.

2. It is not disputed that a sample of 2,4-D Ethyl Ester 38% EC, manufactured by the licensed manufacturer, M/s. Dara Chemical Industries Limited, 625 MIE Bahadurgarh, was drawn from the premises of the petitioners on 19.12.2000. On being tested by the Insecticides Testing Laboratory, Amritsar, the sample was found to be not conforming to the relevant ISI specifications in its active ingredients percentage, as it contained 26.77% active ingredients instead of 36% SL active ingredients and was as such, mis-branded. The licence of the petitioners for sale of insecticides was consequently cancelled by the Chief Agricultural Officer, Gurdaspur, while exercising the powers u/s 14 of the Insecticides Act, 1968 (for short, "the Act")

and the complaint under reference was also filed in court against the petitioners.

3. During the pendency of this petition, learned counsel for the petitioner placed on record, order dated 27.8.2001 of the Appellate Authority viz. Joint Director Agriculture (Plant Protection), Punjab, vide which while restoring the licence of the petitioners for sale of insecticides, protection of Section 30(3) of the Act was also given to them. Relevant part of this order, Annexure P-4, reads as under:-

Keeping in view all the facts and circumstances of the case, I hereby give protection of sub-section (3) of Section 30 of the Act to the appellant and his licence is restored. However, the appellant is not permitted to sell the insecticide 2, 4-D Ethyl Ester 38% manufactured by M/s. Chemical Industries Limited because misbranded insecticide manufactured by this company has been sold by this dealer to the farmers.

4. According to learned counsel for the petitioners, as protection u/s 30(3) of the Act has been given by the Appellate Authority while restoring the licence of the petitioners, the present complaint filed against them deserves to be quashed. In support of his contention, he has referred to the judgment reported as *Rajinder Kumar v. State of Punjab*, 2003(2) R.C.R. (Cri) 244, wherein it was held that if the defences available to the dealer have been accepted in the proceedings pertaining to the cancellation of licence by the Appellate Authority u/s 15 of the Act by recording a finding in his favour, then the criminal prosecution for the contravention of the same provisions of the Act cannot be allowed to continue and can be quashed by the High Court, in exercise of the powers conferred upon it u/s 482 of the Code. This legal proposition was not controverted by the learned Deputy Advocate General. But, according to his interpretation, the Appellate Authority has not permitted the sale of insecticide 2, 4-D Ethyl Ester 38% by the petitioners. I am afraid, this interpretation is not correct. As a reading of Annexure P-4 shows, the Appellate Authority has clearly accepted the defence of the petitioners and has restored their licence for sale of insecticides, though it has added that the insecticides 2, 4-D Ethyl Ester 38%, manufactured by M/s. Chemical Industries Limited will not be sold by the petitioners, as this insecticide manufactured by these manufactures (of which sample was seized from the petitioner), had been found misbranded. The Appellate Authority has not forbidden the petitioners from sale of the said insecticide manufactured by other manufacturers. The Appellate Authority has accepted the defence of the petitioners and has restored their licence to sell insecticides (including 2, 4-D Ethyl Ester). That being so, the case of the petitioners is squarely covered by the judgment, above referred to, and as such, criminal prosecution for contravention of the same provisions of the Act, for which the defence available to them has been accepted by the Appellate Authority, cannot be allowed to continue. The petition is, therefore, allowed and the criminal complaint pending against the petitioners in the trial court is quashed.