(2008) 08 P&H CK 0175

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. 13932-M of 2008

Tejinder and others		APPELLANT
	Vs	
State of Punjab		RESPONDENT

Date of Decision: Aug. 21, 2008

Acts Referred:

- Insecticides Act, 1968 - Section 17, 18, 29, 3(k)(i), 30

Citation: (2009) 4 RCR(Criminal) 602

Hon'ble Judges: Ajai Lamba, J

Bench: Single Bench

Advocate: Rakesh Verma, for the Appellant; K.S. Sidhu, DAG, Punjab, for the Respondent

Final Decision: Allowed

Judgement

Ajai Lamba, J.

1.While issuing notice of motion on 29.05.2008, the following has been noticed:

"Learned counsel for the petitioners contends that the petitioners are licensee and the sample was drawn, out of three original sealed and packed containers weighing 250 ml each and seal was intact and that being so, they would not know the content of the original sealed packing and there is no fault whatsoever of theirs in the alleged misbranding. Learned counsel for the petitioners further contends that a glance through the summoning order Annexure P-2 would reveal that there is no reference with regards to the opinion of the insecticide laboratory that on analysis the contents of the sample were found misbranded."

2. Learned counsel for the respondent has admitted the fact that the petitioners indeed are licencees. The sample was drawn out of original sealed packets and seal was also intact.

3. Sub-section 3 of Section 30 of the Insecticides Act, 1968 (for short `The Act'') reads as under:-

"Defences which may or may not be allowed in prosecutions under this Act....

(3) A person not being an importer or a manufacturer of an insecticide or his agent for the distribution thereof, shall not be liable for a contravention of any provision of this Act, if he proves....(a) that he acquired the insecticide from an importer or a duly licensed manufacturer, distributor or dealer thereof; (b) that he did not know and could not, with reasonable diligence, have ascertained that the insecticide in any way contravened any provision of this Act; and (c) that the insecticide, while in his possession, was properly stored and remained in the same state as when he acquired it."

Admitted facts in this case indicate that the petitioner had acquired the insecticide from a duly licenced manufacturer.

4. Because the samples were taken from sealed packets, it becomes clear that with reasonable diligence, the petitioners could not have known that the provisions of the Act had been contravened. There is nothing on the record to indicate that while the insecticide was in the possession of the petitioners, it was not properly stored.

5. Having regard to the provision of the Act, it becomes clear that no offence, even prima facie has been committed by the petitioners. In this regard, learned counsel has also relied on a judgment of this Court rendered in Crl. Misc. No. 52699-M of 2006 titled Jagtar Singh & another v. State of Punjab, 2008 (4) RCR (Crl.) 515 dated 04.08.2008.

Learned Counsel for the respondent has not been able to dispute the facts.

6. In view of the above, petition is allowed.

Impugned complaint under Sections 3(k) (i), 17, 18, 29 and 33 of Insecticide Act, 1968 read with Rule 27 (5) of the Insecticides Rules 1971 titled as "State v. M/s. Shri Guru Teg Bahadur Khad Store and Others", Annexure P-1 and summoning order Annexure P-2 and all consequential proceedings are hereby quashed.