(2012) 09 P&H CK 0361

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. M-16266 of 2010 (O and M)

M/s. Britannia Industries Limited		APPELLANT
	Vs	
Union of India		RESPONDENT

Date of Decision: Sept. 14, 2012

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Prevention of Food Adulteration Act, 1954 - Section 23(1A)(d)

Citation: (2012) 09 P&H CK 0361

Hon'ble Judges: Sabina, J

Bench: Single Bench

Advocate: Deepak Suri, for the Appellant; Jagdish Marwaha for Union of India, for the Respondent

Final Decision: Allowed

Judgement

Sabina, J.

Petitioner has filed this petition u/s 482 of the Code of Criminal Procedure, 1973 for quashing of criminal complaint No. 81-2 dated 20.8.2007 (Annexure P-3) under the Prevention of Food Adulteration Act, 1954 (the Act for short) as well as summoning order dated 20.8.2007 (Annexure P-4) and all the consequent proceedings arising therefrom. Learned counsel for the petitioner has submitted that the complaint had been filed by the Food Inspector for violation of provisions of Rule 32 of the Prevention of Food Adulteration Rules, 1955 ("Rules" for short) as the complete address had not been given by the manufacturer while giving its address. Learned counsel has further submitted that in fact on the packing of the biscuits it had been specifically mentioned that they had been manufactured by Britannia Industries Limited, 5/1A Hungerford Street, Kolkata 700 017. Hence, there was sufficient compliance of Rule 32 of the Rules. The fact that the name of the state was not mentioned, was inconsequential as the place of manufacture with pin code had been duly mentioned on the biscuits in question. Learned counsel for the

petitioner has placed reliance on "R.K. Mittal versus Dr. B. Roy Chaudhary and another", Prevention of Food Adulteration Cases, 1985(1), 140, wherein it was held as under:-

On the facts and circumstances of this case and relying upon the two decisions, referred to above, I am of the view that in this case there has been substantial compliance with Rule 32(b) of the said Rules since the address given on the Crown corks is sufficient to locate the reputed concern in question. On the strength of the address given on the said crown corks the concerned authorities or other persons cannot have any difficulty in locating the said concern. Accordingly, I hold that no offence, as alleged by the prosecution, has been prima facie made out against the petitioner and the charge framed must be set aside.

2. Learned counsel for the petitioner has further placed reliance on "Hindustan Lever Limited versus Government Food Crl. Misc. No. M-2608 of 2011 (O&M) 3 Inspector, Hoshiarpur and another" decided by a Division Bench of this court in Criminal Miscellaneous No. M-40359 of 2007 on 18.7.2011 wherein it was held as under:-

Coming to the question; as to whether the name of State is bound to be disclosed so as to meet the requirement of Rule 32(c)(i), it needs to be noticed that Rule 32 has been framed with a view to prevent the public or the purchaser being deceived or misled as to character, quality or quantity of the article in terms of Section 23(1A)(d) of the Act. Though the Postal Index Number is meant to facilitate delivery of postal articles by the Postal Authorities, but the fact remains that such Postal Index Number is widely in use after the same was introduced in the year 1972. The Postal Index Number denotes not only the region, but also the State and also the postal area, where the manufacturing unit or the distributor is located. Such Postal Index Number is not an internal guideline shrouded in secrecy, but is widely publicized document propagated to be used by all users of postal articles. Therefore, the printing of Pin code is sufficient to identify the location of the manufacturer or packer, as the case may be, which specifies the purpose of Rules contemplated by a Statute. The requirement of Rule is to examined keeping in view expectations of the reasonable average citizen. The view of this Court in Harkirat Singh, Hasmukh Mewada and Mhini Tea Leaves cases (supra), that address given by the manufacturer or the packer, which includes the Pin code and as thus, the Food Inspector or any person authorized on the Rules have no difficulty in locating the address cannot be said to be against the objective and purpose of the Rules. The substance of the Rule is satisfied, when the name of the manufacturer and the address, which may be the Pin code is sufficient to identify and locate the manufacturer. It is the substance, which is important and not the form thereof. Therefore, in our view the expression "complete address" appearing in Rule 32(c)(i) of the Rules, does not necessarily include the name of the State as well. Therefore, we approve the ratio of judgments of this Court in Harkirat Singh, Hasmukh Mewada and Mohini Tea Leaves cases (supra) and answer the reference accordingly.

3. Learned counsel for the respondent, on the other hand, has submitted that since the name of the state had not been mentioned by the manufacturer on the biscuits in question meant for sale and human consumption, the same were misbranded and the petitioner was liable to be prosecuted.

4. After hearing learned counsel for the parties, I am of the opinion that the instant petition deserves to be allowed.

5. The case of the complainant in brief is that on 25.11.2006 he had inspected Gidderwaha Railway Station and found Rakesh Kumar, vendor, selling fruit cakes and biscuits etc. Complainant purchased 5 packets of biscuits Britannia Tiger, each of 100 grams by paying Rs. 36/-. The samples were drawn from the same and were sent for chemical analysis. As per the report of the Public Analyst, the products had not been labeled in accordance with the provisions of Rule 32 of the Rules as the address of its manufacturer was incomplete. Hence, the sample was misbranded.

6. A perusal of report of the public analyst (Annexure P-7) reveals that the product had been manufactured by Super Snacks Pvt. Ltd. Meerut Road, Ghaziabad-201001. Thus, the place of manufacture with pin code had been duly mentioned on the packing of biscuits in question.

7. Rule 32(c)(i) of the Rules reads as under:-

The name and complete address of the manufacturer and the manufacturing unit, if these are located at different places and in case the manufacturer is not the packer or bottler, the name and complete address of the packing or bottling unit as the case may be;

8. Thus, as per the above rule, the manufacturer is required to disclose its complete address of the packing unit amongst other things. In the present case, the name of the place of the packing with Pin Code had been given and hence, the sample could not be said to be misbranded.

9. Thus, in the facts and circumstances of the present case, the continuation of criminal proceedings against the petitioner would be nothing but an abuse of process of law. Accordingly, the present petition is allowed. Criminal complaint No. 81-2 dated 20.8.2007 (Annexure P-3) as well as summoning order dated 20.8.2007 (Annexure P-4) and all subsequent proceedings, arising therefrom, are quashed.