
Vishwapal Singh alias V.P. Singh Vs State of Punjab and Another

CRM No. M-6949 of 2010

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: April 27, 2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) "Section 482#Essential Commodities Act, 1955 "Section 19, 7#Penal Code, 1860 (IPC) "Section 420

Citation: (2011) 3 RCR(Criminal) 232

Hon'ble Judges: Nirmaljit Kaur, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Nirmaljit Kaur, J.

This is a petition u/s 482 Cr.P.C seeking quashing of FIR No. 184 dated 19.10.2002 u/s 420 IPC, Section 7 EC Act

and Section 19 of Fertilizer Control Order, 1985, P S Qadian, Police District Batala, District Gurdaspur and all the subsequent proceedings arising

out of the same.

2. While praying for quashing of the said FIR, learned counsel for the petitioner contended that as per Clause 24 of the Fertilizer Control Order,

1985 (hereinafter to be referred as "FCO, 1985"), every manufacturing organization is required to appoint an officer in consultation with the

Central Government, who shall be responsible for the compliance of the provisions of the FCO, 1985. The Government of India, Ministry of

Agriculture, vide its letter dated 01.08.1997 had directed all the Enforcement Officers to file cases against the officers designated under Clause 24

of the FCO, 1985 in the event of any offence having been committed and not against anybody else who is not designated for the purpose.

3. In the present case, M/s Oswal Chemicals and Fertilizers Limited (hereinafter to be referred as "the Company") appointed one Vishnu Prasad,

who was working as Manager Technical Services as the said responsible officer in compliance with the provisions of Clause 24 of the FCO, 1985.

Information to the said effect was also sent to the Director of Agriculture, vide letter dated 20.01.2000 (P3). The said Vishnu Prasad, has also

filed his affidavit, stating therein that he was solely responsible for the quality control of the product under Clause 24 of the FCO, 1985. In spite of

the same, the present petitioner who is only an employee of the company and not the officer designated as per Clause of 24 of the FCO, 1985 has

been proceeded against in total violation of the said provision of the FCO, 1985.

4. Reply has been filed by the State. It is contended by the learned State counsel that the petitioner was fully responsible for the compliance of

Clause 24 of the FCO, 1985 and for the quality of the product manufactured by the Company and submitted that the said fact was evident from

the reply filed by the DSP, Qadian, Police District Batala dated 13/23.08.2010 as well as from the letter dated 24.01.2002 (R1) which shows that

the petitioner was responsible for the deficiency in the quality supplied by the Company. Moreover, R-1 was written by the petitioner himself to the

Director of Agriculture, Government of Punjab, Chandigarh, acknowledging that he was responsible for the deficiency in the quality of DAP

supplied to Punjab Agro Industries Corporation.

5. Heard.

6. Clause 24 of the FCO, 1985 reads as under :-

24. Manufacturers/Pool handling agencies to appoint officers responsible with compliance of the order. Every Manufacturing organization, importer

and pool handling agency shall appoint in that organization and in consultation with the Central Government, an officer, who shall be responsible for

compliance with the provisions of this order.

7. After hearing the learned counsel for the parties and having gone through the written statement as well as the provisions of law, it emerges that

the following facts are not disputed :-

a) That in compliance with Clause 24 of the FCO, 1985, every manufacturer is required to appoint an Officer who shall be responsible for any

defect in quality of Fertilizer manufactured by that Company and also for compliance with the other provisions of FCO, 1985;

b) That in terms of Clause 24 of the FCO, 1985, Government of India, Ministry of Agriculture has issued a letter dated 01.08.1997 to the

Secretary, Agriculture of all States and UTs directing the enforcement Officers to file cases against officers designated under Clause 24 of the

FCO in the event of any offence is committed and not against anybody else who is not designated for the purpose;

c) That the main accused Vishnu Prasad was working in the Company as Manager Technical Services. In compliance with Clause 24 of the FCO

1985, Vishnu Prasad and not the present petitioner who was appointed as officer responsible for the compliance of the provision of the FCO and

for the quality of Fertilizer manufactured/handled by the Oswal Chemicals and Fertilizers Limited.

8. Once, it is admitted that only an officer appointed under Clause 24 of the FCO, 1985 is liable to be prosecuted, there is no merit in the

argument raised by the learned State counsel that the present petitioner had himself written a letter (R1) to the Director of Agriculture, Government

of Punjab, Chandigarh taking responsibility for any deficiency in the quality of the fertilizer manufactured by the Company. The said letter is written

by the petitioner as General Manager on behalf of the Company, whereas, he is not the authorized officer as per Clause 24 of the FCO, 1985

which is mandatory requirement before an officer can be held responsible for the violation of the provisions of the FCO, 1985.

9. Moreover, it is admitted that the Government of India vide its letter dated 01.08.1997 (1) to all the Enforcement Officers directed them to file

cases against officers designated under Clause 24 of the FCO, 1985 in the event of any offence having been committed. It is not disputed that the

said Vishnu Prasad and not the present petitioner who was appointed as the said officer under Clause 24 of the FCO, 1985. The said fact was

also conveyed to the Director of Agriculture, Government of Punjab, vide letter dated 20.01.2000 (P3). The said Vishnu Prasad has also

submitted his affidavit, stating therein that he alone was responsible for the quality control of the product under Clause 24 of the FCO, 1985.

10. It is also admitted that the said Vishnu Prasad is also one of the accused and proceedings have already been initiated against him in the said

FIR.

11. In view of the above, the proceedings against the present petitioner are nothing but an abuse of the process of law.

12. In view of the aforesaid discussion, the present petition is allowed and FIR No. 184 dated 19.10.2002 u/s 420 IPC, Section 7 EC Act and

Section 19 of Fertilizer Control Order, 1985, P S Qadian, Police District Batala, District Gurdaspur and all the subsequent proceedings arising out

of the same are quashed qua the present petitioner.