
(1994) 05 P&H CK 0050

In the Punjab And Haryana At Chandigarh

Case No : Criminal MiscellaneousNo. 13242-M of 1993

Aggarwal & Company

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 06-05-1994

Acts Referred:

Citation : (1995) 1 AICLR 470 : (1994) 3 RCR(Criminal) 140

Hon'ble Judges : Harmohinder Kaur Sandhu, J

Advocate : A.R. Sidhu, Navkiran Singh, Advocates for appearing Parties

Judgement

Harmohinder Kaur Sandhu, J.

1. On 25.6.1987 Shri Gulzar Singh, Insecticide Inspector, Amritsar inspected the premises of the petitioners and took a sample of Butachlor 50% EC of Batch No. 20 manufactured by M/s. United Pesticides, Ambala. The sample was got analysed and Insecticide Analyst found the same to be substandard as it contained 24.34% active ingredients as against 50% EC. A complaint was thus filed against the petitioner in the court of Chief Judicial Magistrate, Amritsar. The petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure for quashing the criminal complaint dated 15.1.1988 Annexure P1 under Section 17, 18, 3K and 33 of the Insecticides Act, 1968 and summoning order Annexure P2.

2. It was averred by the petitioner that the complaint was filed without obtaining sanction from the competent authority to launch prosecution. The Inspector also did not comply with the mandatory provisions of Section 22(6) (ii) of the Insecticides Act while taking sample.

3. In the return filed by the respondent, the allegations made in the petition were denied and it was maintained that necessary sanction under Section 31(1) of the Insecticides Act had been obtained from the competent authority and the complaint was not liable to be quashed on that ground.

4. I have heard the counsel for the parties.

5. The only point urged on behalf of the petitioners before me was that the prosecution had been launched against the petitioner without obtaining sanction from the competent authority and the complaint was liable to be quashed on this ground alone. Even if sanction was obtained subsequently that would not remedy the defect in the launching of the prosecution. This contention of the learned counsel is valid. Section 31(1) of the Insecticides Act reads as below :

"No prosecution for an offence under this Act shall be instituted except by or with the written consent of the State Government or a person authorised in this behalf by the State Government."

6. A bare reading of this Section will show that no prosecution for any offence under the Insecticides Act can be instituted without the written consent of the State Government or a person duly authorised by the State Government in that behalf. In the instant case the complaint Annexure P1 was filed in the court on 15.1.1988 and at that time no sanction had been obtained for the prosecution of the petitioners from a competent authority. The sanction for prosecution was accorded only on 18.3.1988 and that was produced in the court on 5.9.1992. The sanction in this case was thus belated and it is well settled that subsequent grant of sanction will not fill the lacuna and remove the defect in the initial launching of the prosecution. In the case of *Raj Pal v. State of Punjab*, 1987(2) CLR 700 a complaint was quashed by this court in exercise of its inherent powers under Section 482 of the Code of Criminal Procedure on the ground that the sanction for the prosecution of the accused under Section 31 of the Insecticides Act was issued subsequent to the filing of the complaint. It was further observed in that case that subsequent Notification could not validate lack of jurisdiction to file the complaint. This fact could not be denied by the learned State Counsel that sanction of State Government or an officer authorised in that behalf is a sine qua non for initiating proceedings for an offence under the Act and a complaint filed without obtaining sanction was liable to be quashed. The defect of want of sanction could not be cured by obtaining sanction for prosecution at a later stage.

7. For the reasons recorded above I allow this petition and quash the complaint Annexure P1, summoning order Annexure P2 and all other proceedings arising therefrom.