
(1986) 12 RAJ CK 0022
In the Rajasthan High Court

Artee Minerals and Others

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 10-12-1986

Acts Referred:

Insecticides Act, 1968 — Section 33

Citation : (1987) CriLJ 1086 : (1986) RLW 733 : (1987) 1 WLN 94

Hon'ble Judges : M.C. Jain, J

Bench : Single Bench

Judgement

M.C. Jain, J.—The petitioners have been summoned by the Chief Judicial Magistrate, Banswara, on registration of the case against them, on complaint filed by the Asstt. Inspector, Udaipur, Agriculture Quality Control under Insecticides Act, 1968. Petitioner 1 is the firm and petitioners 2 to 5 are its partners. The petitioner 6 is the Chief Executive and the petitioner 7 is the Senior Sales Representative. In para 12 of the complaint, the only allegation made against petitioners 2 to 7 are that they are responsible persons.

2. The learned Counsel for the petitioners urged that the essential and requisite allegations whereby penal liability may be attracted, have not been made against the petitioners, so they cannot be held liable and no cognizance can be taken against them. The learned Magistrate has erred in ordering issue of the process against them after taking cognizance. learned Counsel for the petitioner placed reliance on a decision of this Court in P.R. Neelkantham and Others etc. Vs. State of Rajasthan and Others, (1986) 1 Judicial Surveyor 2 : 1986 Cri LJ 1811. The learned Public Prosecutor submitted that in the complaint, it has been alleged that the persons mentioned in para 12 of the complaint are the persons responsible for the conduct of business of the firm and, so, they should be deemed to be guilty of the offence.

3. The question, that arises for consideration is, whether by the allegations made in para 12 of the complaint, requirements of law stand satisfied. On perusal of para 12 of the complaint, it would be obvious that the contents of this para lack

the requisite requirements of Section 33. It should have been clearly alleged that the persons, who are being prosecuted are the persons who are in charge of or are responsible to the firm or the conduct of its business. Four persons have been described as partners and the designation of two others have been given as Chief Executive and Senior Sales Representative. From the designation and description, it cannot be taken that all of them are in charge of or are responsible to the firm or for the conduct of its business. So far as, Shri U.S. Madan is concerned, from his designation, it can be taken that he is in charge of and responsible for the conduct of the business of the firm. His designation is Chief Executive. From the very expression, it would appear that it is he, who runs the business and is responsible for the business of the firm. Looking to his designation, in my opinion, the necessary requirements of law stand satisfied in that designation, so, his case stands on a different footing from others. Out of, the remaining five persons, four are partners and one is senior sales representative. In the absence of allegations, it cannot be found that the sales representative was the in charge of and was responsible for the conduct of business. What are his actual duties and functions are not known and it cannot be gathered from this designation, so it would appear that in respect of the partners namely Shri J. K. Bhartiya, Shri D. K. Bhartiya, Sh. M. B. Kanoriya, Sh. V. P. Kanoriya and in respect of the senior sales representative Shri I.S. VEDI, the complaint lacks requisite allegations. In the absence of the requisite allegations, as required u/s 33, no cognizance could be taken and process could not be issued. In respect of these persons, therefore, in my opinion, the proceedings deserve to be quashed. this Court has already taken such a view in the case of P.R. Neelkantham and Others etc. Vs. State of Rajasthan and Others, relied upon by the learned Counsel for the petitioner. The firm can be proceeded against as well as the Chief Executive Shri U.S. Madan, can also be proceeded against but no proceedings can be initiated against the four partners and the senior sales representative so the proceedings against them deserve to be quashed.

4. Accordingly, this petition is partly allowed the proceedings against the petitioner Shri J. K. Bhartiya, Sh. D. K. Bhartiya, Sh. M. D. Kanoriya, Sh. V. P. Kanoriya and Shri I.S. VEDI are quashed.

5. The petition is disposed of only on the aforesaid point.