
(2011) 02 P&H CK 0478

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-27440 of 2009

Ashok Kumar Makhija and another

APPELLANT

Vs

State of Haryana and another

RESPONDENT

Date of Decision : 28-02-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Insecticides Act, 1968 — Section 12, 18, 19, 27, 29
Penal Code, 1860 (IPC) — Section 420, 506

Citation : (2011) 02 P&H CK 0478

Hon'ble Judges : Ritu Bahri, J

Bench : Single Bench

Advocate : Arun Chandra, for the Appellant; P.S. Virk, DAG Haryana for the Respondent No. 1 and None for the Respondent No. 2, for the Respondent

Final Decision : Allowed

Judgement

Ritu Bahri, J.—This petition u/s 482 Cr.P.C. for quashing of FIR No. 37 dated 13.3.2007 under Sections 420 and 506 IPC and under Sections 18, 27 and 29 of Insecticide Act, 1968, registered at Police Station Chhainsa, District Faridabad. Brief facts are that one Radha Charan lodged an FIR with Police Station Chhainsa stating that they, the farmers of the village Mohna had purchased Sulfosulfuron (Rider brand) from Ashwani Kumar, Proprietor of M/s. Chawla Seeds and Pesticides (India) having its shop No. 15, Indira Market, Old Sabzi Market, Delhi. After spraying the pesticides the crops were damaged in an area measuring 48.5 acres. The Department of Agriculture through his officers found that the damage to the crops due to the pesticides. The abovesaid pesticide was purchased from M/s. Chawla Seeds and Pesticides from Amsons Laboratories Private Limited, Garhi Chhaju, Samalkha, Haryana and marketed by M/s. Yashika Agro Chemical Private Limited, 208, Amber Tower Azadpur Complex, Azadpur, Delhi. Petitioner No. 1 Ashwani Kumar is Director of M/s. Yashika Agro Chemical Private Limited, a sister concern of M/s. Amsons Laboratories Private Limited, Garhi Chajju, Samalkha, District Panipat, manufacturers of various kinds of insecticides/

pesticides. These pesticides were sold to many dealers in Haryana as well as to M/s. Chawla Seeds and Pesticides (India), 15, Indira Market, Old Sabzi Mandi, Delhi. Registration of FIR on the ground that as per the provisions of Insecticides Act, 1968 there are only two laboratories, who can declare the sample mis-branded i.e. the State Insecticide Testing Laboratory and the other is Central Insecticide Laboratory, Faridabad. In the present case, no report from the Insecticide Analysis, who are appointed by the Central Government and State Government, u/s 19 of the Insecticide Act 1968. There is no report to show that the pesticides supplied by petitioner No. 1 to petitioner No. 2 was of inferior quality. Thus, the petitioners have not committed any offence under the provisions of Insecticides Act 1968 as well as under Sections 420 and 506 IPC.

2. Under the provisions of Insecticides Act, 1968 the offence if any, for that offence provision lies u/s 29 of Insecticides Act and provisions of Section 420 and 506 IPC are not specific. The petitioners have not committed any offence under Sections 420 and 506 IPC. The sample of the same product having its stamp batch No. AL-4 having its manufacturing date November 2006 and its expiry date October 2008 was sent for its analysis by the office of the Director of Agriculture, Haryana Krishi Bhawan, Sector 21, Panchkula, Haryana for its analysis to the Central Insecticides Laboratory and later on it was tested by the Regional Pesticides Testing Laboratory. The sample after its analysis was found as per ISI specifications. Same sample was sent to Central Insecticide Laboratory and Regional Pesticides Testing Laboratory and after its analysis, it was found as per ISI specifications vide reports (Annexure P-2 and P-3). In view of the above reports (Annexure P-2 and P-3) launching of the prosecution and consequential proceedings on the basis of FIR, are not maintainable.

3. Reply by way of affidavit of Deputy Commissioner of Police, Ballabgarh, Faridabad has been filed. Vide this reply, challan was presented in the Court of Sh. Tarun Singal, Judicial Magistrate 1st Class, Faridabad and the matter was fixed for framing of charge on 23.12.2009. Reliance has been placed on the inspection report of Agricultural Department (Annexure R-1). Reference has also been made to an order of Sh. Rajesh Khullar, Licensing Officer-cum-Director Agriculture, Haryana, Chandigarh, who vide order dated 23.2.2007 invoking the powers u/s 12 of the Insecticides Act, 1968 had revoked the insecticides manufacturing licence No. TA/DA/66/1996-97 dated 31.5.1996 of M/s. Amsons Laboratories Pvt. Ltd., Garhi Chhajju, Samalkha (Panipat) with immediate effect on the basis of the report of Department of Agriculture and order dated 23.2.2007 (Annexure R-2) in view of the revocation of the licence. The accused had threatened the complainant and therefore committed the offence of criminal intimidation. The petitioners have properly sent up for facing the trial. During the pendency of criminal miscellaneous an order dated 14.5.2007 has been placed on record by counsel for the petitioners. This was an appeal against the order dated 23.2.2007 whereby the Director Agriculture revoked the manufacturing licence dated 31.5.1996 of M/s. Amsons Laboratories Pvt. Limited. This order has been set aside on the ground that proper procedure had not been followed. It is

observed in the order that the licence has been revoked without waiting for the results of the samples, which later on pass the test. These orders were not before the Licensing Authority when he revoked licence of the manufacturer. Annexure P-2 and P-3 are the reports from the Regional Pesticides Laboratory and Central Insecticides Laboratory. The reports are that the samples were as per ISI specifications.

4. In view of order (Annexure P-4) counsel for the respondent Mr. P.S. Virk, DAG Haryana is not able to justify the proceedings initiated in FIR No. 37 dated 13.3.2007 under Sections 420/506 IPC and Section 18, 27 and 29 of Insecticide Act, 1968.

5. Once the order dated 23.2.2007 by which after revoking the licence granted to the Company M/s. Amsons Laboratories Pvt. Limited has been set aside on the ground that the sample test from the Laboratories were as per ISI specifications were not before the Officer and proper procedure has not been followed. Once the reports of the Central Laboratory (Annexure P-2 and P-3) have come that the sample was according to ISI specifications, it will be whole abuse of process of Court if the accused continue face the trial, which would result in his acquittal.

6. In view of the order dated 14.5.2007 (Annexure P-4) no case for registration of FIR under Insecticides Act is made out against the petitioners, who are not even the manufacturers of the pesticides. As per law laid down b State of Haryana and others Vs. Ch. Bhajan Lal and others, and S. Khushboo Vs. Kanniammal and Another, . The law relating to quashing of criminal proceedings is summed up as follows:-

F. Criminal Procedure Code, Section 482 -Quashing of Criminal Proceedings - Law summoned up:-

(1) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) In a case where there is sufficient evidence against the accused, which may establish the charge against him/her, the proceedings cannot be quashed.

(3) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

(4) Criminal proceedings can be quashed but such a power is to be exercised sparingly and only when such an exercise is justified by the tests that have been specifically laid down in the statutory provisions themselves.

(5) High Court while exercising its inherent jurisdiction should not interfere with a genuine complaint but it should certainly not hesitate to intervene in appropriate cases. In fact it was observed.

7. In view of order dated 14.5.2007 (Annexure P-4) no case under Sections 420/506 IPC and Section 18, 27 and 29 of Insecticides Act is made out against the petitioners on the basis of allegations mentioned in the FIR.

8. Once the reports of Central Laboratory (Annexures P-2 and P-3) have come that the sample was according to ISI specifications, it will be an abuse of process of Court if the accused continues to face trial, which would result in their acquittal. In view of the above facts, the petition is allowed and FIR No. 37 dated 13.3.2007 under Sections 420 and 506 IPC and under Sections 18, 27 and 29 of Insecticide Act, 1968, registered at Police Station Chhainsa, District Faridabad, is quashed with all consequential proceedings arising therefrom qua petitioners.