

(1996) 10 P&H CK 0080

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 5596-M of 1996

Balwant Singh

APPELLANT

Vs

State of Punjab through Insecticide Inspector, Jalalabad,
District Ferozepore

RESPONDENT

Date of Decision : 14-10-1996

Acts Referred:

Citation : (1997) 1 AICLR 303 : (1997) 2 RCR(Criminal) 245

Hon'ble Judges : Swatanter Kumar, J

Advocate : Vikas Cuccria, Ravinder Chopra, Advocates for appearing Parties

Judgement

Swatanter Kumar, J. (Oral)

1. I have heard the learned counsel for the parties at some length.

2. The undisputed facts are that the complaint was filed on behalf of State of Punjab through Mr. Surinder Pal Singh, Insecticide Inspector, Agriculture Department, Jalalabad. This complaint was filed under Sections 3(k)(i), 17, 18, 33 punishable under Section 29 of Insecticide Act, 1968 with rule 27(5) of Insecticide Rules, 1971. The dealer as well as the manufacturer and the distributor were prosecuted vide this complaint. The complaint was filed in the Court of learned Magistrate on 25.5.1994. According to the complainant, they had inspected the premises of the accused and collected sample on 17.6.1993. One sample in sealed container was given to the accused. The date of manufacturing of the Insecticide was February, 1993 while expiry date was July, 1994. As already noted the complaint was filed on 25.5.1994. All the accused were summoned by the learned Chief Judicial Magistrate for 24.8.1995. The date of the insecticide seized had already expired and the petitioner before this Court has lost valuable right of having third sample tested by the concerned Laboratory.

3. The department had allegedly served a notice upon the accused to show cause, which was replied by the accused on 6.8.1993. It is alleged that a definite request was made to the Department that third sample be got examined from

the concerned Laboratory in order to establish innocence of the petitioner. However, the Department took no steps on the request of the petitioner again frustrating the legitimate right available to the petitioner under the provisions of the Act.

The complaint filed against the manufacturer was quashed by the Bench of this Court in Criminal Misc. No. 5095M of 1995 M/s. Unique Faramid Pvt. Limited v. State of Punjab through Insecticide Inspector Jalalabad on 7.9.1995. In spite of that the Department kept on pursuing the complaint against the dealer which gave rise to the filing of the present petition.

4. There cannot be any dispute to the proposition of law that once a dealer or manufacturer makes a request for getting third sample tested by the concerned Laboratory, the Department and even the Court would not have any choice but to permit such request. If such valuable right of the accused is taken away, that too by some inaction and complete inefficiency and negligence on the part of the complainant, it will certainly amount to denial of fair trial and the right of defence of the accused will be seriously prejudiced.

For the reasons aforesaid and the judgment of this Court in Criminal Misc. No. 21572M of 1995 (Jai Shree Pvt. Ltd. v. State of Haryana), I have no hesitation in holding that the present complaint is liable to be quashed as the accused has been deprived of his valuable right to have third sample analysed in accordance with the provisions of the Act and the rules framed thereunder.

5. Before parting with this file, it has to be observed that the above stated kind of in action, inefficiency and intended negligence on the part of the officials/officers of the office of Director of Agriculture, Punjab, has not only resulted in wastage of public money and effort but has also wasted valuable time and efforts of the court as well. Such attitude on the one hand hampers the administration of justice and on the other hand results in filing of unnecessary litigations. Considerable effort is put in entertainment of complaints, passing of orders, issuance of summonses and service thereof upon the accused. It is this complete chain of courts and departments entrusted with the job of administration of justice. All this exercise is futility, because of an irresponsible attitude of the complainants i.e. the above department.

6. More than seven years back various judgments were pronounced by various Benches of this Court holding that complaints filed beyond the period of life of the sample would adversely affect the defence of the accused and such complaints were quashed. Being well aware of the position of law, it appears that no methodology has been worked out by the department to ensure timely filing of complaints and complying with other like provisions of the Act. On the contrary, there is increase in filing such complaints which by their institution are defective or if filed in time, no effort is made to serve the accused before the expiry date of the sample. Further, in various cases it has come to the notice of the Court that in spite of a written request by the accused, the sample is not

sent to the Central Laboratory in accordance with the provisions of the Act.

7. It is this persistent malfunctioning in the various branches of this department that compelled the Court to direct the Director of Agriculture, Punjab to be present in Court. In furtherance to the order dated 9.10.1996, the Director of Agriculture, Punjab, had appeared and was unable to add anything worthwhile, to the vague reply filed on behalf of the respondents in Court. However, he assured the Court that appropriate steps will be taken at the earliest and in any case within a period of three months from today to ensure proper functioning in the department. He further submitted that each case would be properly examined before the complaint is filed in the court of the competent jurisdiction and appropriate action against the erring officer/official shall be taken. I have no doubt, in my mind, that concerned Director would certainly endeavour his best and improve the functioning in the department. I have also no doubt that this multifunctioning in the department would be remedied at the earliest.

8. In view of the assurance given by the Director of Agriculture, Punjab, I do not wish to pass any further directions at this stage.

9. Consequently, this petition is allowed with costs which are assessed at Rs. 5,000/-. This cost initially shall be paid by the State, but would be recovered from the erring officer/officials dealing with this case within a period of one month from today.