

(1990) 06 P&H CK 0061

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No's. 4291-M (O and M) , 4292 and 4293 of 1989

Chain Singh and Son, etc. through Chain Singh, Karta of
H.U.F. and Another

APPELLANT

Vs

Assistant Collector (Preventive) Central Excise Collectorate

RESPONDENT

Date of Decision : 05-06-1990

Acts Referred:

Central Excises and Salt Act, 1944 — Section 9
Penal Code, 1860 (IPC) — Section 174, 175

Citation : (1990) 30 ECR 486

Hon'ble Judges : Harbans Singh Rai, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Harbans Singh Rai, J.—The respondent filed a complaint u/s 9 of the Central Excises and Salt Act, 1944 read with Sections 174 and 175 I.P.C. against the petitioners in the Court of Chief Judicial Magistrate, Chandigarh on May 13, 1989. In this petition a prayer has been made for quashing the complaint.

2. The brief facts as alleged in the complaint are that M/s. Chain Singh & Son respondent No. 1 is H.U.F. concern consisting of Chain Singh and Devinder Singh, son of Chain Singh. Chain Singh is the Karta of H.U.F. Concern. M/s. Chain Singh & Son, petitioner No. 1 is engaged in the purchase and sale of man made fabrics falling under Chapters 54/55/60 of the Schedule to the Central Excise Tariff Act, 1985. On inspection of the resumed (sic) and other records, it was felt necessary that the records, of accused No 1 and evidence of accused No. 2 would be necessary to investigate the matter relating to evasion of central excise duty. On four occasions summons were issued to Chain Singh, petitioner No. 2 for the production of record and his personal attendance. The summons were accordingly served upon Chain Singh but he neither appeared in person nor produced the requisite records. On the other hand, he sent telegrams seeking adjournments on one pretext or the other on all the dates. It is alleged in the

complaint that the petitioners are guilty of not complying with the summons and producing the record as desired. The quashing of the complaint has been sought on number of grounds.

3. A perusal of the complaint shows that the ingredients of the offence mentioned are made out. The petitioners have only been summoned and at this stage I do not find any ground to interfere in the summoning order. The arguments of learned Counsel for the petitioners that the complaint is filed by an officer who is not competent to file the same and that no complaint is competent against petitioner No. 1 may be raised before the trial Magistrate who will go into them. There is no ground for interference. The petition is dismissed.

The parties, through their counsel, are directed to appear in the trial Court on June 15, 1990.