
(1991) 10 P&H CK 0041

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 14907-M of 1990

Chogawan Kheti Store.

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 07-10-1991

Acts Referred:

Citation : (1991) 2 AICLR 912 : (1992) 1 RCR(Criminal) 162

Hon'ble Judges : Harmohinder Kaur Sandhu, J

Advocate : I.P.S. Sidhu, Arun Chandra, Ravinder Chopra, Advocates for appearing Parties

Judgement

Harmohinder Kaur Sandhu, J.

1. M/s Chogawan Kheti Store, Chogawan dealt in insecticides and Shri Lakhwinder Singh was the owner of the premises dealing in insecticides. Sulakhan Singh, Insecticides Inspector, inspected the shop of M/s Chogawan Kheti Store and took three packets of Farnoxone (2, 4D), Sodium Salt 80% manufactured by M/s Imkemex India Ltd, Calcutta by way of sample. These packets were put into three polythene bags. Seizure memo was prepared which was signed by Tarlochan Singh, Salesman. One scaled sample was given to Tarlochan Singh and the other two samples were sent to the office of the Chief Agricultural Officer, Amritsar. The Chief Agricultural Officer sent sample to Central Insecticides Laboratory, NHIV Faridabad (Haryana) for analysis. The Analyst reported that the sample had shown low active ingredients and did not conform to the relevant specifications in the test requirement and thus was misbranded. The Insecticides Inspector then filed a complaint against the dealers, distributors and manufacturers for offences under sections 13, 17, 18 and 2k(i) 33 of the Insecticides Act, 1968. The petitioners namely M/s Chogawan Kheti Store through its proprietors Lakhwinder Singh, Amrik Singh and Tarlochan Singh filed the present petition under section 482 of the Code of Criminal Procedure read with Article 227 of the Constitution of India for quashing the complaint Annexure P2 and consequent proceedings arising out of that complaint pending before the

Chief Judicial Magistrate., Amritsar.

2. I have heard the learned counsel for the parties and have perused the record.

3. It was argued on behalf of the petitioners that sample of insecticides was taken in this case on December 24, 1987 and the Insecticides Inspector filed the complaint in Court on April 24, 1989. Before filing the complaint, a sanction was to be obtained but sanction to launch the prosecution in Court was obtained after the filing of the complaint i.e. on November 16, 1989. The complaint was liable to be quashed simply on this ground that no sanction was obtained prior to the filing of the complaint. A reference was made to para of the reply filed to the petition, wherein it was admitted that necessary sanction for instituting prosecution against the petitioners was required and that sanction was granted by the sanctioning authority on November 16, 1989. The complaint Annexure P1 is dated April 24, 1989. The sanction, was, thus, obtained after the prosecution was launched. In similar situation, complaint as well as consequent proceedings taken thereunder were quashed.

4. In the case of S.C. Sharma and others v. The State of Punjab and another, 1990(1) Recent Criminal Reports 702 . In the abovementioned case, reliance was placed on another single bench decision of this Court reported as Raj Pal v. State of Punjab, 1987(2) CLR 700 wherein the 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 the said authority that subsequent notification could not validate lack of jurisdiction to file the complaint.

5. In the case of Shiv Shankar v. State of Punjab, 1991(1) CLR 22, sanction was granted after the filing of the complaint. It was observed, sanction of State Government or an officer authorised in this behalf is a sine qua non for launching prosecution for an offence under the Act and where the complaint is filed without obtaining sanction but sanction is accorded by the competent authority subsequently the defect of want of sanction is not cured and complaint and proceedings pursuant thereto are invalid and liable to be quashed on that score.

6. The facts of the present case are similar to the facts of the case referred to above. The complaint in this case was filed on April 24, 1989 and obtaining of sanction on November 16, 1989 did not validate the proceedings which were already pending. The Court had no jurisdiction to entertain the prosecution except with the written consent of the State Government or a person authorised in that behalf. The complaint, and all consequent proceedings arising out of the same are, therefore, liable to be quashed.

7. For the reasons recorded above, I accept this petition and quash the complaint Annexure P1 as well as the consequent proceedings arising out of the same pending before the Chief Judicial Magistrate Amritsar.