
(1991) 08 P&H CK 0038

In the Punjab And Haryana At Chandigarh

Case No : Criminal Appeal No. 342-DBA of 1986

Employees State Insurance Corporation, Chandigarh .

APPELLANT

Vs

Surinder Singh Puri

RESPONDENT

Date of Decision : 27-08-1991

Acts Referred:

Citation : (1991) 2 AICLR 1013 : (1991) 2 RCR(Criminal) 626

Hon'ble Judges : S.S.Rathor, J and J.S.Sekhon, J

Advocate : K.L. Kapur, Advocates for appearing Parties

Judgement

I.S. Sekhon, J. (Oral)

1. Shri Surinder Singh Puri is the principal employer of M/s Puri Engineering Works, Ludhiana which comes under the ambit of Employees State Insurance Act, 1948. The accused failed to produce the record, namely wages and salary registers, current contribution cards, contribution cards, return of contribution cards, register of employees under Regulation 32 and other records pertaining to the submission of contribution cards and Inspection Books for inspection before the Insurance Inspector, Ludhiana on 12.11.1984 for the period relating to April, 1981 to October, 1984, as required under section 45 of the Act and allegedly committed an offence punishable under section 85(g) of the Act. The accused was issued notice Ex. P1 by the Inspector to do so on 27.11.1984 by 3 PM but he failed to produce the record which resulted in the issuance of notice Annexure P4 dated 26.12.1984 by the Deputy Regional Director calling upon the accused to produce the record within fifteen days of the date of issuing of this notice. The accused failed to produce the record which resulted in filing a complaint before the concerned Court after taking sanction Annexure P7 from the Regional Director for prosecution.

2. The trial Court after recording the evidence acquitted the accused of the charge under section 85(g) of the Act by holding that the sanction was not accorded after due application of mind. It also weighed with the trial Court that in the complaint, the evidence is led qua nonproduction of some other

documents than the one figuring in complaint.

3. Feeling aggrieved against that order, the complainant has come up in appeal against the acquittal, the permission regarding which was allowed by this Court and the appeal was admitted.

4. We have heard the learned counsel for the parties besides perusing the record.

5. No doubt, the mere factum that some more documents were mentioned in the complaint than the one figuring in the evidence of J.S. Kapoor PW1 is not itself sufficient to record an order of acquittal as the trial Court could have taken into consideration the consistent version of J.S. Kapoor which pertains to nonproduction of the documents which also figure in the complaint. Anyhow, this matter is not of much importance especially, when the sanction Ex P7 has not been accorded by the Regional Director after due application of mind. The sanction has been accorded on a printed form wherein nonproduction of payment vouchers, ledgers and cash book for inspection figures whereas these books do not figure in the original complaint. Similarly, the nonproduction of Accident register figuring in notice P1 does not figure in the sanction. Thus it appears that while according the sanction, all the documents mentioned in Regulation 32 had been jotted down without caring as to which of these documents the accused had refused to produce before the concerned Inspector.

6. Consequent it cannot be said that the trial Court had taken a wrong view of the matter qua the nonapplication of its mind before according the sanction. If that is so, then the entire proceedings are vitiated on this score. Thus no case is made out for interference with the impugned order of acquittal of the trial Court. It is, however clarified that the department shall be at liberty to give fresh notice to the accused for production and inspection of the documents as per rules and regulations.

JUDGMENT accordingly.