

(1999) 01 P&H CK 0033
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 1147 of 1998

Haryana State Board for the Prevention and Control of Water Pollution APPELLANT

Vs

Sanjivan Research Laboratories (Regd.) RESPONDENT

Date of Decision : 15-01-1999

Acts Referred:

Citation : (1999) 3 RCR(Criminal) 265

Hon'ble Judges : R.L.Anand, J

Advocate : P.K. Mutneja, Rajiv Atma Ram, Kanwaljit Bajwa, Advocates for appearing Parties

Judgement

R.L. Anand, J.

1. By this order, I dispose of five Criminal revisions No. 1147 to 1150 (moved by Haryana State Board for the Prevention and Control of Water Pollution) and 1402 (moved by M/s Instruments and Chemicals (P) Ltd.), all of 1998, but the object of filing all the five petitions is the same, which seek the quashment of the orders dated 4.9.1998, passed in Crl. Revisions 1147 to 1150 of 1998 and order dated 30.9.1998, passed in Crl. Rev. 1402 of 1998.

2. Haryana State Board for Prevention and Control of Water Pollution, Chandigarh, filed an application for the withdrawal of the prosecution against the industrial units and the said application was dismissed by the learned Special Environment Court, Hisar, who even went to the extent of passing certain remarks, which can be described in the following manner :

"There is grave menace to the society from the environmental pollution and every citizen is affected by it. This menace is ever increasing and everlasting. The court is duty bound to act in public interest in furtherance of administration of justice, not in the interest of the Board. This matter does not concern with particular individual indeed concern with the nation as a whole. The duty of the court is to dispense justice according to law and punish the guilty as per law of

the land. The judicial courts are not governed at the will of any executive authority like Board. Courts are governed by the rules and orders of the Hon''ble High Court to which these are subordinate and court of law is to run the administration of justice according to the law of the land. If the Board is allowed to interfere in the administration of justice, in the desired manner, as in the present case, then writ of the law of jungle will loom at large and polluting unit will go unpunished playing with the life of the citizens. Prosecution of pollution units/industries/establishments will be a lucrative business for the Board, as well as for the State Government. Whenever the Government or Board will desire it will start to prosecute any industry/unit or establishment and after getting the extraneous consideration fulfilled it will withdraw from prosecution and may charge huge amount as litigation expenses, which is being done in the present case. It will make the administration of justice pathetic in the eyes of polluting units and offenders will treat the court of law as a tool in the hands of Board. The Board should restrain itself from acting like a pettifogger. Under these circumstances, it has become imperative to protect the majesty of law.

Considering the totality of the circumstances, directing the complainant by the Board not to lead further evidence or not to peruse (pursue ?) the case further is illegal, arbitrary, capricious, political tainted, discriminatory and well engineered contrivance to circumvent the law of the land with the clear object of hampering administration of justice. Permission is declined to the Board as well as complainant to withdraw from the prosecution, and the Board is directed to continue the prosecution of accused as per the law."

3. Aggrieved by the order dated 4.9.1998 and with the remarks quoted above passed by the Presiding Officer, Special Environment Court, the present five revision petitions.

4. Repeatedly, it has been stated by the Supreme Court and also by the High Courts that the Presiding Officer of a judicial court should act like a cucumber. When anger enters in the heart of a judicial officer, justice will flee through the door. So far as the object of the learned Magistrate in protecting the environment of this country is concerned, there are no two opinions that the object is laudable. A judicial officer may be morally convinced that the particular act on the part of an individual or institution may not be right, but law courts are governed by the rule and procedure. If the prosecutor making the application for the withdrawal of the prosecution has applied its mind and has ultimately come to the conclusion that the withdrawal of the prosecution is in the larger interest of the parties, the law courts should not impede and become a stumbling block. It is none of the business of the law courts to pass severe strictures, much less at the hands of the Magistrate. A Presiding Officer should restrain himself while passing such severe strictures. Something which can be done in a polite manner should be done in that very manner and there was hardly any necessity on the part of the learned Magistrate to condemn the action on the part of the Board in the severest language, which has been used in declining the application. No mala

fide is discernible on the part of the Board when it wanted to withdraw the prosecution. The Board might have compounded the offence, perhaps with an understanding on behalf of the units that they will take necessary steps for protecting the environment of the industry. If the Board is satisfied that the necessary steps have been taken and after imposing fine, etc., it has reached to a compromise, the law courts rather should try to protect the interests of both the units as well as the Board itself.

5. In these circumstances, I set aside the orders dated 4.9.1998 and 30.9.1998 passed by the Special Environment Court and accept the application of the prosecution and directions are given to the learned Magistrate not to prosecute the accused/respondents in the main petition. At the cost of repetition, this court states that while setting aside the orders dated 4.9.1998 and 30.9.1998, I have not passed any adverse order against the Presiding Officer but have tried to give an advice to all the Presiding Officers of the subordinate courts to restrain themselves in passing the structures against the actions of the Government/Corporate Bodies, rather such like matters should be left to the High Court which has higher powers than that of the learned Magistrate.