
(2002) 08 P&H CK 0057

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 4964-M of 1999

Hindustan Pulverising Mills

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 08-08-2002

Acts Referred:

Citation : (2002) 1 AICLR 727 : (2002) 4 RCR(Criminal) 555

Hon'ble Judges : Viney Mittal, J

Advocate : Mr. Vibhor Bansal, Advocate. Mr. Rajbir Sehrawat, Deputy Advocate General, Haryana., Advocates for appearing Parties

Judgement

Viney Mittal, J. (Oral)

1. The petitioners have filed the present petition under section 482 of the Code of Criminal Procedure for quashing complaint dated April 2, 1998 filed under section 29(3) of the Insecticide Act, 1968. The complaint has been appended as Annexure P/3 with the present petition. Whereas petitioner No. 1M/s. Hindustan Pulverising Mills is manufacturer of the insecticide, petitioner No. 2 Mohinder Singh Chauhan is the Production Manager of the aforesaid manufacturer. As per averments made in the complaint on August 26, 1997, Quality Control Inspector visited the premises of M/s. Ved Parkash Sunil Kumar, Radaur which was a dealer of insecticide and drew a sample of carbendazim 20% WP batch No. 70. It is further stated in the complaint that the date of manufacturing of the aforesaid insecticide was February 1997 and the date of expiry was January, 1999. The petitioners have prayed for the quashing of the complaint on the ground that in fact the complaint itself has been filed in April, 1998 and the petitioners had been summoned by the learned trial Magistrate and had been served to appear before the trial court on February 14, 1999 when the shelf life of the sample had already expired. It has been further averred in the present petition that a show cause notice was received by the M/s. Ved Parkash Sunil Kumar (dealer) on November 4, 1997. The aforesaid show cause notice had also been sent to M/s. Hindustan Pulverising Mills i.e. petitioner No. 1 for information and in compliance

of section 24 of the Insecticide Act. The petitioners have stated that they sent a reply to the aforesaid show cause notice on November 25, 1997. A copy of the aforesaid reply has been appended as Annexure P/2 with the petition. In the aforesaid reply the petitioners have stated that they were not satisfied with the report submitted by the Analyst and requested the Deputy Director of Agriculture to send the second sample to the Central Insecticide Laboratory for retesting as per the provisions of sections 24(3), 24(4) of the Insecticides Act, 1968.

2. A notice of the present petition has been sent to the State of Haryana but no reply contesting the petition has been filed on behalf of the respondent State.

3. I have heard Shri Vibhor Bansal, learned counsel for the petitioners and Sri Rajbir Sehrawat, learned Deputy Advocate General appearing for the State of Haryana.

4. Shri Bansal states that in fact since in the present case the show cause notice had been served upon the dealer as well as manufacturer, issued on November 4, 1997 to which a reply in accordance with the law had been filed by the petitioners on November 25, 1997 claiming reanalysis of the sample, but still rather than taking any action in the matter the complaint itself was filed by the Insecticide Inspector in the month of April, 1998. On the aforesaid complaint, summoning orders were served upon the petitioners and they appeared for the first time in the court in the month of February, 1999 i.e. after the date of expiry of the sample which was taken by the Quality Control Inspector. In these circumstances, Shri Bansal states that the valuable right of the petitioners to get the sample retested from the Central Insecticide Laboratory has been taken away and, therefore, the complaint and the summoning order made against the petitioners are liable to be quashed. In this regard reliance has been placed upon a judgment of this court in *National Organic Chemicals Industries Ltd. v. State of Haryana*, 1992(1) Recent Criminal Reports 137 and the judgment of the Apex Court in Criminal Appeal No. 591 of 2002 decided on April 18, 2002 (*M/s. Gupta Chemicals Pvt. Ltd. and others v. State of Rajasthan and another*).

5. On the other hand Shri Rajbir Sehrawat, learned Deputy Advocate General appearing for the State of Haryana submits that in fact it is not shown whether any right to have the sample reanalysed was ever exercised by the manufacturer. He submits that in fact there is no evidence, at this stage, to show whether the reply annexure P.2 dated November 25, 1997 was ever sent by the petitioners or was ever received by the competent authority.

6. However, I find that the submission made by Shri Rajbir Sehrawat, learned Deputy Advocate General, Haryana cannot be accepted for the simple reason that the State of Haryana has chosen not to even file the reply to the present petition contesting the averments made in it. In view of the facts and circumstances of the present case and the law laid down in the cases of *National Organic Chemicals Industries Limited* and *M/s. Gupta Chemicals Pvt. Ltd. and others* (supra) I quash the complaint annexure P/3 and all consequential

proceedings taken thereupon against the petitioners. However, it is made clear that quashing of the complaint qua the petitioners for the reasons stated above would have no bearing upon continuation of the proceedings against the remaining accused.

7. Since the matter has remained pending for a sufficiently long time in this court, therefore, the learned trial court is directed to conclude the trial of the case as expeditiously as possible but not later than December 31, 2003.