
(1985) 09 P&H CK 0002
In the Punjab And Haryana At Chandigarh
Case No : Criminal Misc No. 1685-M of 1985

Market Committee, Safidon	Vs	APPELLANT
M/s Sheetal Parkash Satinder Nath and another		RESPONDENT

Date of Decision : 19-09-1985

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Punjab Agricultural Produce Markets Act, 1961 — Section 10

Citation : (1985) 09 P&H CK 0002

Hon'ble Judges : K.P.S Sandhu, J

Bench : Single Bench

Advocate : Ravi Kapoor, for the Appellant; S.K. Mittal, for the Respondent

Final Decision : Allowed

Judgement

K.P.S. Sandhu, J.—The Market Committee, Safidon through its Secretary has filed this petition u/s 482 of the Code of Criminal Procedure

praying therein that the judgment of the Sub Divisional Magistrate, Safidon, dated 15th September, 1983, and that of the Additional Sessions

Judge, Jind, dated 13th July, 1984, be quashed

2. The facts which gave rise to this petition are as under. The Respondent firm deals in sale, purchase, storage and processing of agricultural

produce as kacha arhtia in the notified area of Safidon The firm is a licensee u/s 10 of the Punjab Agricultural Produce Markets Act, 1961. The

Market Committee, Safidon, through its Secretary filed a criminal complaint against the Respondents for the violation of sub rule (11) of Rule 24

punishable under Rule 39 of the Punjab Agricultural Produce Markets (General) Rules, 1962, and also for the violation of the condition of the

license granted to the firm under the Act. On a notice issued by the learned trial

Magistrate, the Respondents put in their appearance in the Court.

The learned Magistrate recorded some evidence of the complainant and dismissed the complaint on the short ground that the Secretary of the

Market Committee, Safidon, was not competent to file the complaint unless he was formally authorised by the Committee. Aggrieved by the order

of the learned trial Magistrate, the Committee through its Secretary filed a revision in the Court of Session. The same came up for final hearing

before the Additional Sessions Judge, Jind. The learned Additional Sessions Judge, Jind, relying upon a Single Bench authority of this Court

reported as *Raja Ram Trehan v. Principal, Suderson Singh, Malva Higher Secondary School, Ferozepur City* 1981 Cri. L. J. 1469, dismissed the

revision of the Committee on the short ground that since the order of the trial Magistrate amounted to an acquittal of the Respondents, so no

revision was competent. Hence, this petition u/s 482 of the Code of Criminal Procedure.

3. Apparently, this complaint was to be tried as a Summons case. In a summons case, the trial Magistrate was neither to charge the Respondents

nor to discharge them. He dismissed the complaint on the short ground that cognizance could not be taken because the complaint was not filed by

a person who was duly authorised. So, at best the trial Magistrate could dismiss the complaint and discharge the bail bonds of the Respondents.

The order of the learned trial Magistrate certainly does not amount to an acquittal. A bare reading of Section 39 (2) of the Punjab Agricultural

Produce Markets Act, 1961, shows that the Secretary of the Market Committee is competent to file a complaint without any authorisation.

Section 39 (2) of the Act reads as under:

39. (2) Prosecutions under this Act may be instituted by the Chairman or the Secretary of the Board or the Chairman or Secretary of a Committee

or by any other person authorised by the Board or a Committee.

The interpretation put forth by the learned trial Magistrate is on the face of it wrong. In view of Section 39(2), the Secretary or the Chairman of a

Committee does not need any authorisation to file a complaint. An authorisation is needed only by a person other than the Chairman or Secretary

of a Committee. So, I am of the view that the learned Additional Sessions Judge, Jind, was certainly competent to hear the revision on merits

because the ratio of Raja Rem Trehan's case (supra) is not applicable to the facts of this case, as in that case the trial Magistrate discharged the accused u/s 245 of the Code of Criminal Procedure, which provision deals with the procedure in warrant casts. The learned trial Magistrate had considered the whole evidence for the prosecution and discharged the accused on merits. The learned Single Judge came to a finding that since the prosecution failed to prove the accusation against the accused which if unrebutted by him, would stand substantiated beyond all reasonable doubt, so this discharge should amount to an acquittal.

4. In this view of the matter, this petition is allowed and the orders of the learned trial Magistrate and the learned Additional Sessions Judge, Jind, are set aside and the case is sent back for trial according to law in the light of the observations of this Court. The parties through their counsel are directed to appear before the trial court on 7.10.1985.