

(2001) 08 P&H CK 0028

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 5829-M of 1993

M/s. Hindustan Pulverising Mills

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 31-08-2001

Acts Referred:

Insecticides Act, 1968 — Section 29, 3(k)(i), 33

Citation : (2001) 1 CriminalCC 483 : (2002) 1 RCR(Criminal) 461 : (2002) 1 RCR(Criminal) 512

Hon'ble Judges : H.S. Bedi, J

Bench : Single Bench

Advocate : Ravinder Chopra, for the Appellant; Randhir Singh, DAG, Punjab, for the Respondent

Judgement

H.S. Bedi, J.—The petitioner, M/s Hindustan Pulverising Mills has filed the present petition through its Managing Director Prem Parkash Aggarwal, Pleading that the petitioner could not be prosecuted under Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968 read with Rules 27(5) of the Insecticides Rules, 1971 as the sanction for the prosecution of the Managing Director of the firm (Annexure P-3) had not been validly granted as it had been given mechanically and without application of mind, as the facts leading to the matter had not even been noted. It has also been prayed that the complaint (Annexure P-1), impleading the present petitioner through Prem Parkash Aggarwal was, therefore, liable to be quashed. The learned counsel has cited Tannu Galhotra alias Neeraj v. State of Punjab, 1994(3) RCR 501, D.N.Caturvedi v. State of Punjab, 1994 (2) RCR 133, and K.G.Papu and anothers v. State of Punjab, 1996 (1) Recent CR 795, in support of his argument.

2. As against this, Mr.Randhir Singh, DAG, appearing for the respondent - State has relied on Sections 31 and 33 of the Insecticides Act, 1968 to contend that whenever an offence had been committed by a company, every person who at the time of offence was committed, was in charge of, or was responsible to the

company for the conduct of the business of the company as well as the company, was to be deemed to be guilty and the onus of liability had to be discharged by the accused.

3. I have heard the learned counsel for the parties and have perused the judgments cited above.

4. The judgments cited indicate that the sanction order must itself be comprehensive and must show application of mind before it is made. In the sanction order (Annexure P-3) there is no reference as to when the sample had been taken and how the same had been found to be misbranded. It also reveals that though M/s Hindustan Pulverising Mills, the petitioner has been mentioned in the sanction order but there is no reference whatsoever to Prem Parkash Aggarwal, the Managing Director. The complaint (Annexure P-1) initiated by the complainant is accordingly quashed but liberty is given to the respondents to issue a fresh sanction order in accordance with law. The parties are directed to appear before the trial Court on November 23, 2001. Dasti.