

(2007) 12 P&H CK 0045

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-53550 of 2007

M/s KEC Metalics Pvt. Ltd., Yamuna Nagar and Others

APPELLANT

Vs

Haryana State Pollution Control Board, Panchkula and
Another

RESPONDENT

Date of Decision : 14-12-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (2008) 2 RCR(Civil) 68 : (2008) 3 RCR(Criminal) 376

Hon'ble Judges : L.N. Mittal, J

Bench : Single Bench

Advocate : D.S. Patwalia, for the Appellant;

Final Decision : Dismissed

Judgement

L.N. Mittal, J.—Petitioners have approached this Court u/s 482 of the Code of Criminal Procedure for quashing of complaint No. 14 of 2006 (Annexure P-3), instituted on 01.08.2006 by the Respondents and consequent summoning order dated 06.10.2006 (Annexure P-4).

2. Learned Counsel for the Petitioners, referring to notification dated 27.01.1994 (Annexure P-5) contended that the Petitioners' unit is a Small Scale Industry, with investment of less than one crore rupees, in accordance with Annexure P-1, and is therefore exempt from requirement of environmental clearance in view of Rule 3(c) of the notification dated 27.01.1994. Rule 3 ibid is reproduced hereunder for proper appreciation:

3. Nothing contained in this notification shall apply to:

(a) any item falling under entry Nos. 3, 18 and 20 of the Schedule-1 to be located or proposed to be located in the areas covered by the Notifications S.O. No. 102(E). dt. 1st February, 1989; S.O. 114 (E). dt. 20th February, 1991; S.O. No. 416(E). dt. 20th June, 1991 and S.O. No. 319(E). dt. 7th May, 1992.

(b) any item falling under entry Nos. 1, 2, 3, 4, 5, 7, 9, 10, 12, 13, 14, 16, 17, 19, 21, 26 and 27 of Schedule-1 if the investment is less than Rs. 50 crores.

(c) any item reserved for Small Scale Industrial Sector with investments less than Rs. 1 Crore.

Clause (c) of the aforesaid Rule 3 exempts Small Scale Industries with investment of less than one crore only, if the industry relates to an item reserved for Small Scale Industrial Sector. However, there is nothing on record to substantiate the contention of the Petitioners that the products being manufactured by the Petitioners' unit have been reserved for Small Scale Industrial Sector. Learned Counsel for the Petitioners referred to Schedule-1 of the aforesaid notification, but this Schedule does not relate to the items reserved for Small Scale Industrial Sector.

3. Learned Counsel for the Petitioners, faced with the aforesaid situation, referred to letter dated 13.10.2006 (Annexure P-7), whereby the Ministry of Environment and Forests of Government of India communicated to the Petitioners' unit that environmental clearance is not required under notification dated 14.09.2006 (Annexure P-5/A). However, the impugned complaint relates to acts and omissions committed before the notification dated 14.09.2006 came into force. This notification is prospective in operation. The acts and omissions complained of in the impugned complaint relate to the period when notification dated 27.01.1994 was operative. Letter Annexure P-7 does not say that environmental clearance was not required by the Petitioners' unit even under the notification dated 27.01.1994.

4. Learned Counsel for the Petitioners referred to Clause 12 of the notification dated 14.09.2006, but it also does not save the acts and omissions committed during the period when notification dated 27.01.1994 was in operation.

5. Learned Counsel for the Petitioners also contended that the case has not been committed to the Environment Court and therefore, prosecution of the Petitioners is vitiated. The argument has been noticed simply to be rejected because the Environment Court is a Magisterial Court and the Presiding Officer of the Environment Court at Kurukshetra, where the impugned complaint is pending, is an officer of the level of Judicial Magistrate, and therefore, commitment of the case to the said court was not required. In view of the aforesaid, finding no merit in the instant petition, the same is hereby dismissed.