

(2009) 07 P&H CK 0042

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-53906 of 2007

M/s. Saini Kheti Sewa Centre

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 07-07-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Insecticides Act, 1968 — Section 3(k)(i)

Citation : (2009) 4 RCR(Criminal) 600

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

Bench : Single Bench

Advocate : Rakesh Verma, for the Appellant; Gaurav Garg Dhuriwala, AAG, Punjab, for the Respondent

Final Decision : Allowed

Judgement

L.N. Mittal, J.—M/s Saini Kheti Sewa Centre has filed this petition u/s 482 of the Code of Criminal Procedure (in short the Cr.P.C) for quashing of criminal complaint (Annexure P-1) filed against petitioner and another under Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968 read with Rule 27(5) of Insecticides Rules, 1971.

2. It is undisputed that the petitioner is licensed dealer and sample of insecticide which was found to be misbranded was seized from a sealed container from the petitioner's premises. Complaint has been instituted against the petitioner-dealer as well as against the manufacturer of the insecticide.

3. I have heard learned counsel for the parties and perused the case file.

4. Learned counsel for the petitioner relying on two judgments of this Court in the case of Gurmej Singh and another v. State of Punjab, 2008 (2) RCR Cri 24 and Deepak Sharma and others v. State of Punjab, 2008 (2) RCR Cri 24, contended that the dealer cannot be prosecuted under the Insecticides Act, when the sample was seized from a sealed container and only manufacturer can be

prosecuted.

5. Learned State counsel has not been able to advance any meaningful argument to controvert this contention because it has been admitted in the reply on behalf of the State that the petitioner is a licensed dealer registered under the Insecticides Act and it is also admitted in the reply that the sample was seized from sealed container.

6. In view of the aforesaid, there is no escape from the conclusion that the petitioner dealer cannot be prosecuted and, therefore, the complaint along with all consequential proceedings deserves to be quashed. The petition is accordingly allowed. Impugned complaint (Annexure P-1) and summoning order (Annexure P-2) and all consequential proceedings are quashed as against the petitioner only.