
(2005) 03 P&H CK 0034

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 4838-M of 2001

M/s. Sandeep Pesticides and Fertilizers

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 23-03-2005

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Insecticides Act, 1968 — Section 29

Citation : (2005) 2 RCR(Criminal) 940

Hon'ble Judges : Pritam Pal, J

Bench : Single Bench

Advocate : Arun Chandra, for the Appellant; N.S. Gill, Assistant Advocate General, Punjab, for the Respondent

Final Decision : Allowed

Judgement

Pritam Pal, J.—Petitioner M/s. Sandeep Pesticides & Fertilizers, Guruharsahai, had filed this petition u/s 482 of the Cr.P.C., for quashing the complaint Annexure P-1, against him under Sections 3(k)(i), 17, 18, 33 and 29 of the Insecticides Act, 1968 (hereinafter referred to as 'the Act'), read with Rule 27(5) of the Insecticides Rules, 1971 (hereinafter referred to as 'the Rules') and for quashing all the subsequent proceedings arising out of the said complaint.

2. As per the allegations made in the complaint, the Petitioner-firm obtained a license for the purposes of selling, stocking and exhibiting different types of insecticides/pesticides being manufactured by M/s. Gayatri Agrochem & Pesticides, New Delhi. It has on July 13, 1999, that Rajinder Kumar, Insecticide Inspector, drew sample of 'monocrotophos' 36% SL in 5 litres packing batch No. 153, manufactured by M/s. Gayatri Agrochem & Pesticides. The said sample was ultimately sent to the Senior Analyst, Insecticide Testing Laboratory, Ludhiana, and on report, the same was found to be misbranded.

3. On the basis of that report, a complaint case was filed by said Rajinder Kumar Insecticide Inspector against the Petitioner as well as the manufacturer M/s.

Gayatri Agrochem & Pesticide, through K.K. Sharma. New Delhi.

4. On having found the sample misbranded, the license of the dealership of the Petitioner was cancelled by the Chief Agriculture Officer, Ferozepur, on December 23, 1999 for selling, stocking and exhibiting the misbranded insecticide. However, in appeal before the Joint Director, Agriculture (Plant Protection), Punjab, the said order of cancellation of license was set aside vide order dated April 3, 2000, by giving the Petitioner benefit of Section 30(3) of the Act. Thus, the license of the Petitioner was ultimately restored. According to the Petitioner's counsel, in such a situation, prosecution of the Petitioner in the said complaint case could not have been launched.

5. In reply filed by Rajinder Kumar, Insecticide Inspector, all the aforesaid averments made in the complaint could not be rebutted. However, at the same time, it has been submitted that protection of Section 30(3) of the Act, can be taken only after leading evidence before the trial Court.

6. Admittedly, license of the Petitioner has already been restored by the learned Appellate Authority, merely on the ground that the container from where the sample was taken was duly sealed and intact and as such, Petitioner dealer has a right to seek protection u/s 30(3) of the Act. That being so, the case of the present Petitioner is covered by a Division Bench judgment of this Court reported as *Rajinder Kumar v. State of Punjab*, 2003(2) RCR(Criminal) 244 (P&H) (DB), wherein it has been held that in such a case, criminal complaint against the dealer would amount to abuse of process of law.

7. For the reasons recorded above, this petition is allowed and criminal complaint Annexure P-1 qua the Petitioner M/s. Sandeep Pesticides & Fertilizers, Guruharsai, Grain Market, Guruharsahai, District Ferozepur, and all subsequent proceedings arising therefrom are hereby quashed.

Petition allowed.