
(2002) 10 P&H CK 0046
In the Punjab And Haryana At Chandigarh
Case No : Criminal M. No. 39761-M of 1999

Parmod Gupta

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 09-10-2002

Acts Referred:

Citation : (2003) 1 AICLR 601 : (2002) 4 RCR(Criminal) 793

Hon'ble Judges : Viney Mittal, J

Advocate : Mr. Dinesh Goyal, Advocate. Mr. Sandeep Jain, Assistant Advocate General, Punjab., Advocates for appearing Parties

Judgement

Viney Mittal, J.

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 read with Article 227 of the Constitution of India by the petitioner for quashing of the FIR No. 125 dated October 21, 1999 registered under Section 7 read with section 12AA of the Essential Commodities Act, 1955 further read with Clause 19 of the Fertilizer Control JUDGMENT 1985 registered at Police Station Mukerian. The aforesaid FIR has been appended as Annexure P.2 with the present petition.

2. I have gone through the FIR. A perusal of the FIR shows that a sample of the fertilizer manufactured by the company petitioner No. 2 was taken by the Fertilizer Inspector on September 14, 1998 from a dealer who was dealing with the products manufactured by the company petitioner No. 2. On a subsequent analysis, the sample was found to be substandard. Consequently, a show cause notice was issued to the company petitioner No. 2 by the Chief Agricultural Officer, Hoshiarpur on December 11, 1998. On the basis of an authorisation letter (appended as Annexure R.1 with the reply of the respondents), the aforesaid show cause notice was replied by petitioner No. 1 Parmod Gupta on behalf of the company petitioner No. 2.

3. I have heard the learned counsel for the parties and with their assistance have

gone through the record.

4. In my considered opinion, no case for quashing of the FIR has been made out by the petitioners.

5. Shri Dinesh Goyal, the learned counsel for the petitioner has vehemently argued that petitioner No. 1 Parmod Gupta was merely a Commercial Manager and was not a person who was an authorised person under the provisions of Clause 24 of the Fertilizer Control JUDGMENT 1985.

6. On the other hand, Shri Sandeep Jain, the learned Assistant Advocate General, Punjab has drawn my attention to the copy of a certificate issued by the company petitioner No. 2 whereby the aforesaid Parmod Gupta petitioner No. 1 was nominated as the person responsible under Clause 24 of the Fertilizer Control JUDGMENT 1985. A copy of the aforesaid certificate as Annexure R.1 has been appended with the reply filed by the respondents.

7. Without expressing any opinion on the merits of the controversy of the case at the stage, I find that it is not a case in which this Court should exercise inherent powers under Section 482 of the Code of Criminal Procedure, 1973 for quashing of the FIR.

8. Faced with this situation, Shri Dinesh Goyal, the learned counsel for the petitioners submits that the present petition may be dismissed as not pressed with the liberty to the petitioners to file an appropriate application before the learned trial Judge taking up all the pleas raised in the present petition and other defences which are available to them in accordance with law for dropping of the proceedings against them.

9. Under these circumstances, I dismiss the present petition as not pressed with liberty to the petitioners to file an appropriate application before against them. While filing the aforesaid application, it shall be open to the petitioners to raise all the pleas raised in the present petition and other defences which are available to them in accordance with law before the learned trial Judge. If any such application is filed by the petitioners then the same shall be decided on merits by the learned trial Judge after hearing all concerned.

10. The personal presence of the petitioners shall remain exempted during the pendency of the proceedings subject to the petitioners submitting an undertaking before the learned trial Judge that they shall not object to the evidence being recorded in their absence on the ground of their being absent. However, the learned trial Judge is at liberty to secure the personal presence of the petitioners as and when the same is so required by it in accordance with law.

11. Since the matter has been remained pending in this court for a sufficiently long time, therefore, the trial Judge is directed that the proceedings in the case be concluded expeditiously and in any case not later than December 31, 2003.