

(2005) 02 P&H CK 0189
In the Punjab And Haryana At Chandigarh
Case No : Criminal Appeal No. 31-DBA of 1994

Punjab Pollution Control Board	Vs	APPELLANT
M/s. Kartar Paper and Board Mills and Another		RESPONDENT

Date of Decision : 02-02-2005

Acts Referred:

Water (Prevention and Control of Pollution) Act, 1974 — Section 44, 47

Citation : (2005) 13 CriminalCC 805

Hon'ble Judges : Virender Singh, J

Bench : Single Bench

Advocate : Tarun Gupta, for the Appellant; Vivek Suri, for the Complainant, for the Respondent

Final Decision : Dismissed

Judgement

Virender Singh, J.—In a complaint case instituted by Punjab State Board for Prevention & Control of Water Pollution, Patiala through its Assistant Environmental Engineer, the respondents, were charged u/s 44 read with Section 47 of the Water (Prevention & Control of Pollution) Act, 1974 (in short the Act) for allegedly violating the provisions of Section 25 of the Act. The learned trial Court vide judgment dated 15.7.1992 convicted them of the charge. Respondent No. 1/ firm was sentenced to pay a fine of Rs. 1,000/- only, while its partner Harish Kumar/respondent No.2 was sentenced to undergo RI for one year and to pay a fine of Rs. 1,000/-, in default thereof to suffer further RI for three months.

2. In appeal before the lower appellate Court, the respondents earned acquittal by the impugned judgment of Additional Sessions Judge, Rup Nagar dated 17.8.1993.

3. Feeling aggrieved by the judgment of acquittal, the appellant/Board has preferred the instant appeal.

4. I have heard Mr. Tarun Gupta, learned counsel for the appellant and Mr. Vivek Suri, learned counsel for the respondents. With their assistance, I have perused

the entire record carefully.

5. Mr.Gupta contends that the lower appellate Court has erred in coming to the conclusion that the solitary statement of PWI-Vijay Kumar, is unconvincing. According to Mr.Gupta, it is the quality of evidence, which is to be seen and not the quantity and as such the approach adopted by the learned Additional Sessions Judge is not sustainable in the eye of the law.

6. Mr.Gupta then contends that the trial Court has also gone wrong in observing that the water discharged by the accused-respondents cannot be said to be polluted within the meaning of Section 2(e) of the Act, whereas it has come on the record that the respondents were causing polluting by discharging their trade effluent without consent of the Board, which amounts to violation of the provisions of Sections 25/26 of the Act, punishable u/s 44 read with Section 47 of the Act.

7. On the aforesaid submissions, Mr.Gupta submits that the impugned judgment passed by the lower appellate Court acquitting the respondents deserves to be disturbed while that of the trial Court by affirmed.

8. Repudiating the submissions made on behalf of the appellant, Mr.Suri while drawing my attention to the statements of PW-1 Vijay Kumar, Junior Environmental Engineer (JEE) and PW-2 Jasbir Singh Tiwana, Law Officer besides the inspection report (Ex.PA), has contended that the case of the appellant/ Board is not established to prove the charge against the respondents.

9. After hearing the rival contentions of either side and perusing the record, I am of the view that the appellant has no case. A perusal of the impugned judgment goes to show that the learned lower appellate Court has disbelieved the testimony of P W-1 Vijay Kumar after discussing all the material evidence in detail (para 7 of the judgment refers). The learned Additional Sessions Judge has also discussed the provisions of Section 2(g) and (k) of the Act and thereafter observed that it is nowhere stated by this witness that the respondents/accused were discharging sewage effluent from their premises. Another lacuna, which has been taken into account by the lower appellate Court is that Vijay Kumar JEE had admitted that there is a laboratory of the Board in which there is a facility for testing the polluted water, but he did not take any sample of the polluted water in this case. On the basis of these observations, the learned appellate Court has come to the conclusion that it cannot be said as to whether effluent allegedly discharged by the respondents was, in fact, sewerage effluent or trade effluent and it can also not be determined as to whether the water which was being discharged by them, was polluted within the meaning of Section 2(e) of the Act.

In my considered view, there is no intrinsic infirmity in the impugned judgment of the learned Additional Sessions Judge, which is well reasoned one and is based on proper appreciation of evidence. The trial Court judgment has been rightly disturbed.

Resultantly, the instant appeal, being devoid of any substance in it, stands dismissed.