

(2004) 12 P&H CK 0008

In the Punjab And Haryana At Chandigarh

Case No : Criminal Appeal No. 391-DBA of 1991

Punjab State Board

APPELLANT

Vs

M/s. Shree Ram Printing Mills, Tarn Taran and Others

RESPONDENT

Date of Decision : 01-12-2004

Acts Referred:

Water (Prevention and Control of Pollution) Act, 1974 — Section 25(7), 44, 47

Citation : (2004) 11 CriminalCC 840 : (2005) 1 RCR(Criminal) 624

Hon'ble Judges : Virender Singh, J

Bench : Single Bench

Advocate : S.C. Sibbal, with Mr. B.S. Rana, for the Appellant; H.S. Giani, for the Respondent

Final Decision : Dismissed

Judgement

Virender Singh, J.—Punjab State Board for Prevention & Control of Water Pollution (hereinafter referred to as Board) has preferred the instant appeal against the acquittal earned by the respondents vide impugned judgment of learned Judicial Magistrate. 1st Class, Amritsar dated 16.2.1991.

2. A complaint was filed by the Board against M/s.Shree Ram Printing Mills respondent and its partners u/s 44 read with Section 47 of the Water Prevention and Control of Pollution Act, 1974 (hereinafter referred as "the Act") alleging that the Mill was discharging Sewer/Trade Effluent for stagnation and the same was causing pollution. This was in violation of the Punjab Government Notification dated 27.3.1980 published in the State - Govt. Gazette dated 28.8.80.

3. It is worth mentioning here that Smt.Urmila Jain and Smt.Sushila Kapur. who were also the partners of the firm were initially arraigned as accused but a statement was made by the complainant before the trial Court and on the basis of the said statement, aforesaid Urmila Jain and Sushila Kapur were discharged. However, the present respondents were charged u/s 44 read with Section 47 of the Act. After appreciating the entire evidence, they have since been acquitted.

4. The present appeal was admitted by the Division Bench of this Court vide order dated October 3, 1991. However, as per the High Court rules, it is now before Single Bench for final disposal.

5. I have heard Mr.S.C.Sibbal, Senior Advocate assisted by Mr.B.S.Rana, learned counsel for the appellant and Mr.H.S.Giani learned counsel for the respondent. With their assistance I have gone through the entire record minutely.

6. The respondents have been acquitted firstly on the ground that respondents No.2 to 4 were not responsible for the conduct of the business of the firm and merely that the person is partner of the firm or the Director of the company does not make him guilty of the offence of the Act.

7. The second ground taken into consideration is that the consent, for discharge of the "Trade Effluent" is deemed to have been granted to the respondents. The learned trial Court while entering into detailed discussion in this regard has referred to Section 25(7) of the Act and has observed that the consent as contained in sub-section (1), unless otherwise refused will be deemed to have been given automatically by the board on the expiry of the period of four months from the date of making an application in this behalf.

8. I have also perused the entire evidence with the assistance of the learned counsel for both the sides and am in agreement with the finding of the trial Court. Surinder Pal PW-4 has proved the correspondence, which had been exchanged between the respondents and the board for obtaining the consent. He has stated that the last application by the Mill was received on 31.7.1986 for obtaining the consent. Finding, the statement of Surinder Pal to be incorrect to some extent, the learned trial Court has relied upon the statement of the respondent Avilash Chander Jain, who also stepped into the witness box as defence witness and proved the application Ex.DB sent by respondent No.1 to the board on 3.1.1987. This application is further proved by the postal receipt and the confirmation receipt of that application by the Board on 7.1.1987. Taking all these aspects into account, the learned trial Court concluded that the consent has neither been given nor refused on pursuance of the application dated 3.1.1987 and the same is deemed to have been unconditionally granted on the expiry of period of four months as per the provisions of Section 25(7) of the Act and as such no offence is committed by the respondents.

9. Mr. Sibbal has not been able to refer to any legal infirmity on any count in the impugned judgment. I also do not find any discernible perversity in the same which would call for disturbing the order of acquittal.

10. Consequently the present appeal is dismissed being devoid of any merit in it.