
(2006) 10 P&H CK 0012

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 17113-M of 2006

Raj Pal Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 16-10-2006

Acts Referred:

Prevention of Food Adulteration Act, 1954 — Section 16

Citation : (2007) 2 RCR(Criminal) 45

Hon'ble Judges : Tej Pratap Singh Mann, J

Bench : Single Bench

Advocate : Harinder Sharma, for the Appellant; S.S. Chahal, A.A.G. Punjab, for the Respondent

Final Decision : Dismissed

Judgement

T.P.S. Mann, J.—The petitioner has sought quashing of complaint dated 13.11.2002 instituted by Government Food Inspector, Patiala against him and another and setting aside of the order of the even date passed by Sub- Divisional Magistrate, Rajpura vide which he was ordered to be summoned u/s 16 of the Prevention of Food Adulteration Act (hereinafter referred to as 'the Act').

2. In the complaint it was alleged that the premises of Hotel Raj, situated in village Sarsini, were inspected on 28.2.2002 at 2.00 p.m. by Dr. Daljit Singh, Government Food Inspector accompanied by Dr. Baldev Singh and Dr. Madanjit Singh. At that time Baldev Raj Manager of Hotel Raj was present. 30 kilograms of Atta was found lying in a gunny bag for sale and human consumption. Sample of the Atta was taken. The same was thereafter sent to Public Analyst, Punjab, who on examination found that the sample contained one rodent excreta, hence, the sample was adulterated. Accordingly, criminal complaint was instituted by the Government Food Inspector against Baldev Raj, Manager of the hotel as well as the present petitioner, being the owner of the said place.

3. While seeking quashing of the complaint and the summoning order, the

petitioner stated that he had been falsely implicated in the complaint. At the relevant point of time i.e. 28.2.2002, he was not in India. In fact he was in England since 30.11.2001 and working as Neighbourhood Housing Manager (Higher Grade) at Willenhall Neighbourhood Office within Housing Services. There was no allegation levelled against him in the complaint instituted by the Government Food Inspector and he was arrayed as one of the accused being the owner of Hotel Raj and for no other reason. In fact the petitioner was co- owner of the said hotel along with his brother. Accordingly, it was prayed that the complaint be quashed and the summoning order set aside.

4. In reply, the respondent has pleaded that the petitioner is the owner of the hotel in question and as the sample of the atta taken from the premises of the hotel was found to be adulterated, the petitioner could not avoid liability u/s 16 of the Act. Further that at the time of the raid, Raj Pal, Manager of the hotel had informed the Government Food Inspector that the hotel was being run by the present petitioner. Accordingly, the dismissal of the present petition was sought.

5. Though the petitioner may have been living in England but it is not denied that he was the owner of Hotel Raj although according to him, he was co-owner with his brother Raj Karan Singh. Being an owner of the premises, from which adulterated atta was recovered, the petitioner cannot run away from the liability by asserting that he was not present at the time when the sample in question was taken. The petitioner is clearly described in the complaint as an owner of Hotel Raj and that at the time of the inspection of the premises, Baldev Raj, Manager of the hotel, was present. It is not the case of the complainant that the petitioner was also present there. He is being made liable being the owner of the premises, where the adulterated atta was found.

6. A half hearted plea was taken by the petitioner that before migrating to England, he executed a power of attorney in favour of his brother Raj Karan Singh authorizing him to look after Hotel Raj in all respects. As such he could not be held liable for any offence committed in relation to the running of Hotel Raj. However, to my mind, execution of such a power of attorney would not absolve the petitioner and instead make his brother Raj Karan Singh liable in the event of any such act of commission of offence, like the presence of adulterated atta as in the present situation.

7. It may also be noticed here that the present petition was not filed by the petitioner himself but through his brother Raj Karan Singh. To my mind, anyone, who seeks quashing of criminal proceedings, ought to present the petition himself and not through his attorney. The petitioner has chosen to stay back. He is described in the heading of the petitioner to be resident(of Willenhall, United Kingdom. The contents mentioned in the petition have been supported by an affidavit executed by Raj Karan Singh. It appears that the petitioner has no respect for the law. He was summoned as an accused on 13.11.2002 and being away from the process, his presence could not be secured. At the time when the present petition was filed in March 2006, the petitioner stood summoned to

appear before the trial Court for 19.5.2006.

8. In view of the above, there is no merit in the present petition and the same is, accordingly, dismissed.

9. However, it is made clear that any expression or opinion expressed above be not construed as final and the trial Court would be at liberty to record the evidence and thereafter appreciate the same in accordance with law. The petitioner is permitted to take all the pleas available to him.