
(2010) 09 P&H CK 0296
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision. No. 487 of 2006

Rakesh Kumar

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 16-09-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 401
Insecticides Act, 1968 — Section 2
Penal Code, 1860 (IPC) — Section 420

Citation : (2011) 1 RCR(Criminal) 102

Hon'ble Judges : Sabina, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Sabina, J.—This petition has been filed u/s 401 of the Code of Criminal Procedure ("Code of Criminal Procedure" in short) wherein Petitioner has challenged order dated 3.12.2005 passed by the Chief Judicial Magistrate Sirsa whereby the charge against the Petitioner has been framed u/s 420 of the Indian Penal Code ("IPC" for short)

The contents of the complaint read as under:

On the above said matter, you are hereby informed that today i.e. 12.7.2004, Baljinder Singh s/o Bakshish Singh, Caste-Jat Sikh, r/o Dhani Kadan Singh, Village Mangla, Distt. Sirsa, Surjit Singh s/o Mangal Singh, Caste Jat Sikh, r/o Dhani Madan Singh, Village Mangla Jaswant Singh Randhawa s/o Bhajan Singh working as General Manager, Coromandal Agrico (Insecticide Company) informed this office that M/s Sham Shree Seeds, Janta Bhawan Road Sirsa, who is running the business of selling insecticides, is selling mis-branded insecticides under name and labels of our company. He sold us 2 quintals 45 kgs Padan 4-G, saying it genuine. He took guarantee for it. When we were applying it on our fields, then one doctor from Coromandal Company visited our fields. We showed him the insecticide, upon which, he told me that it is duplicate. Then all those informed

me regarding above said matter. For taking immediate action, I along with Police party from City Police Station raided the shop of M/s Sham Shree Seeds. Proprietor of the shop, Om Parkash was present there. He admitted that Baljinder Singh r/o Dhani Kadan Singh, Village Mangla had brought Padan 4G-insecticide manufactured by Coromandal Company. Upon asking, the following unauthorized insecticides were found from his store, for which he was neither having any bill nor any entry in the stock register. So it is clear that this insecticide is duplicate and it is cheating with the framers and company. The insecticides recovered are as: Padan 4 G=2Qtls 40 Kgs, recovered from the shop as was returned by the farmer. Insecticide recovered from unauthorised store are: Phorate 10G-1Qtl, Phorate-do-40 Kgs, Microplere Zinc High=4 Qtls, Zinc Sulphate 2%=3 Qtls 60 Kgs Saamudra Shatijaime Liquid 108 Lt. When Om Parkash was asked for these insecticides, he told that he took these insecticides from One Padam Bansal son of Bansi Dhar r/o Gali-Opp City Police Station, When I along with police party, raided that Gali Thakran Wali, where store of Padam Bansal is situated, the following insecticides were found there. These insecticides were recovered after breaking lock, At the time of recovery, local residents farmers Baljinder Singh and Surjit Singh and Sat-want Singh of Coromandale Company were present there. The insecticides are Asatit 75% SO=138 Mg. Confidar 200 SI=10 Lt, Padan 4G=14Qtl. Thereafter all these insecticides were brought to City Police Station, Sirsa, Samples of insecticides and fertilizers were drawn. Action will be taken as per the order of the court. You are requested to register a case against Om Parkash Sharma and Padam Bansal who have cheated the farmers and manufacturing company and committed crime while selling misbranded insecticides.

2. Learned Counsel for the Petitioner has submitted that the FIR in question was liable to be quashed as only a complaint under the Insecticides Act 1968 could have been filed in this case. Hence, the charge could not have been framed against the Petitioner u/s 420 IPC. In support of his arguments learned Counsel has placed reliance on *Jatinder Kumar Jain v. State of Punjab* 2008 (2) FAC 437, S.C. *Sharma and Anr. v. State of Haryana* and Ors. 2003 (1) RCR 788, *Piyara Singh and Ors. v. State of Haryana* 2002 (3) R.C.R. 290 : 2002 (2) RCC 704 and *Padam Bansal v. State of Haryana* 2005 (4) RCR 68. Learned State counsel, on the other hand, has opposed the petition.

As per Section 2(k) of the Act, the term misbranded

(i) if its label contains any statement, design or graphic representation relating thereto which is false or misleading in any material particular, or if its package is otherwise deceptive in respect of its contents; or

X- X- X- X-

(ii) if it is an imitation of, or is sold under the name of, another insecticide; or

X- X- X- X-

(vii) if the label contains any reference to registration other than the registration number, or

X- X- X- X-

3. In the present case, a perusal of the FIR reveals that a complaint was moved against Om Parkash that he was selling duplicate insecticides. When the premises of Om Parkash were raided, he stated that he purchased insecticides from Padam Bansal. On this basis, FIR was sought to be registered against Om Parkash Sharma and Padam Bansal. However, during investigation, the name of Padam Bansal was dropped as Om Parkash Sharma again made a statement during investigation that he was preparing the duplicate insecticides with the help of the Petitioner. Since the offence alleged to have been committed by the Petitioner falls within the purview of the Act, the procedure as enunciated in the Act for initiation of Criminal Proceedings against the guilty was liable to be followed.

4. Accordingly, this petition is allowed. Impugned order whereby charge was framed against the Petitioner u/s 420 IPC is set aside. It is clarified that this order will not stand in the way of any proceedings being taken after following due process of law.