(2013) 08 P&H CK 0438

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-37235 of 2012 (O and M)

Rohit Choudhary APPELLANT

Vs

State of Punjab and Another RESPONDENT

Date of Decision : 14-08-2013

Acts Referred:
Criminal Procedure Code, 1973 (CrPC) — Section 482
Punjab Excise Act, 1914 — Section 61, 61(2)

Citation : (2013) 08 P&H CK 0438

Hon'ble Judges : Ritu Bahri, J

Bench : Single Bench

Advocate : Avtar Singh Khaira, for the Appellant; Amrit Pal Singh Gill, AAG, Punjab, for the Respondent

Final Decision : Disposed Off

Judgement

Ritu Bahri, J.—This petition u/s 482 Cr.P.C. is for quashing of FIR No. 50 dated 31.12.2011 u/s 61 of the Punjab Excise Act, 1914 registered at Police Station Talwara, District Hoshiarpur, Punjab. According to the prosecution a check barrier was installed by the police near Ramgarh and on checking vehicle bearing registration No. HP-20C-8289, 600 bottles of liquor were seized without carrying the transit permit.

2. The petitioner''s case is that the vehicle in question was going from Mehatpur (Una), Himachal Pradesh, to Damtal in District Kangra. The petitioner company is a subsidiary of M/s. Ranger Breweries Ltd. which has a licence to sell the Indian Made Foreign Liquor (IMFL) in Kangra District. The services of New Himachal Goods Truck Owners Union, Mehatpur, District Una, were hired on 30.12.2011 to transport 600 cases of country liquor through the route of MPB Sansarpur as mentioned in Permit Form-32. As per the Permit (Annexure P2) the petitioner could sell IMFL/country liquor wholesale/retail at L-13 in the Kangra District from M/s. Rangar Breweries Ltd., Mehatpur Una to the wholesale premises at M/s. Rangar Breweries Ltd., L-13 Damtal.

3. A co-ordinate Bench of this Court in Kamaljit Singh Vs. State of Punjab and others, while examining the registration of the FIR u/s 61 of the Punjab Excise Act, 1914 has quashed the proceedings on the ground that as per Section 61-A of the Act if a person was found in possession of liquor contravening the provisions of Punjab Excise Act, penalty can be imposed upon him as per Section 61(A) and possession of liquor was no longer a punishable offence u/s 61(2) of the Act.

4. The allegation against the petitioner is that the Permit (Annexure P2) had expired on 30.12.2011. The proceedings qua imposition of penalty u/s 61(A) of the Punjab Excise Act, 1914 against the petitioner are pending before the Excise & Taxation Officer, Hoshiarpur, as per instructions given by HC Narinder Kumar.

5. Since the offence, if any, committed by the petitioner is covered by imposition of penalty u/s 61(A) of the Punjab Excise Act, the registration of FIR is an abuse of process of Court.

6. In view of the above, FIR No. 50 dated 31.12.2011 u/s 61 of the Punjab Excise Act, 1914 registered at Police Station Talwara, District Hoshiarpur, Punjab, is quashed with all consequential proceedings arising therefrom qua petitioner. Petition is disposed of.

