

(1991) 08 P&H CK 0072

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 1904-M of 1991

Salil Singhal

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 27-08-1991

Acts Referred:

Citation : (1991) 2 AICLR 574 : (1992) 1 RCR(Criminal) 336

Hon'ble Judges : G.S.Chahal, J

Advocate : Sh. Bipan Ghai, Sh. R. S. Ghai, Azad Singh, Advocates for appearing Parties

Judgement

G. S. Chahal, J

1. Salil Singhal, Managing Director, Singhal Pesticides, Agra and M. L. Sachdeva, Area Manager, Singhal Pesticides. Agra have moved this criminal miscellaneous under Section 482 Cr. P. C. for quashing of the complaint, Annexure P 1, pending in the Court of the Chief Judicial Magistrate, Karnal under Section 29 of the Insecticide Act, 1968.

2. The impugned complaint was instituted against M/s Bhagwati Trading Co. and others on the allegations that on 22/7/1987, B. S. Tyagi, Assistant Plant Protection Officer Karnal, exercising powers of Insecticides Inspector, took a sample of Butachlore 50 EC from the premises of the Company accused¹. The sample was divided into 3 portions and after sealing one of the samples was handed, over to Bir Bhan proprietor of the Company. On analysis, it was found that the sample was misbranded as the technical contents were only 40.26% against the required contents of 50%. A copy of the analysis report and a show cause notice were sent to the accused¹. The petitioners and the firm whom they represented, were impleaded as accused, on the ground that they had manufactured the misbranded insecticides.

3. The petitioners challenge the prosecution on the basis of the impugned complaint, on the ground that no consent for prosecution of M. L. Sachdeva,

petitioner2 was obtained and thus, the prosecution was in contravention of Section 31(1) of the aforesaid Act. No notice was given to the petitioners and they were denied the right of getting the sample reanalysed and further that the life of the insecticides had expired on 30.7.1989 and thus, the petitioners had been deprived of their right to get the sample reanalysed.

4. Annexure P 3 the sanction order shows that no sanction for prosecution against M. L. Sachdeva had been accorded. Sanction under Section 31(1) of the Act is a prerequisite for launching prosecution under the Act.

5. In the complaint, there is no mention of the fact that the report of the analyst was ever sent to the present petitioners. By the time they were served on the basis of the complaint, the shelf life of the insecticides had expired and they had no opportunity of getting the sample reanalysed.

6. The learned counsel relies upon the observations of S. S. Grewal, J., in *Tirlok Singh v. State of Punjab* and *anr.*, 1990(3) Recent CR 194 and *A.L. Batra v. State of Haryana*, 1991(3) Recent C. R. 106 in support of his argument that if the report about "misbranding of the insecticides is not supplied to the manufacturer, this deprives "him of the light to rebut the report of the Public Analyst by getting the same analysed from Central insecticides Laboratory. I accept the contention of the learned counsel.

7. I For the foregoing reasons, I accept the criminal miscellaneous and quash the impugned complaint and the consequent proceedings qua the petitioners.