
(1994) 12 P&H CK 0044

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 11565-M of 1992

Shiva Sales Corporation

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 19-12-1994

Acts Referred:

Citation : (1995) 1 RCR(Criminal) 575

Hon'ble Judges : H.S.Brar, J

Advocate : Ravinder Chopra, G.S. Nihal Singh Wala, Inderjit Malhotra,
Advocates for appearing Parties

Judgement

H.S. Brar, J.

1. In this petition under Section 482 of the Criminal Procedure Code, a prayer has been made by the petitioners to quash FIR No. 65 dated 19.9.1991 registered against M/s Shiva Sales Corporation (hereinafter referred to as the corporation) at Police Station, Mansa under Sections 3, 7 and 9 of the Essential Commodities Act 1955.

2. The learned counsel for the petitioners submits that on the basis of the checking made on 24.7.1991 which was one of the basis of registering the above said case against the Corporation. The registration certificate of the petitioners firm was cancelled. The petitioners firm filed appeal against the order of the Chief Agriculture Officer, Bathinda (Annexure P2). The appeal was accepted by the Director Agriculture Office, Punjab and the registration certificate was restored holding the firm not guilty of any violation. The learned counsel argued that the first information report referred to above may be quashed solely on the basis of the appellate order of the Director Agriculture as according to him in that appellate order, the petitioners have been exonerated as the petitioners found not guilty of any violation as alleged in the first information report. Learned counsel has cited Uttam Chand & Others v. Income Tax Officer Central Circle, Amritsar, 1982 ITR 909, Ramesh Kumar v. State, 1985(2) RCR 47 and Walayati Ram & others v. State, 1987(1) RCR 306 to substantiate his arguments.

3. Reply has been filed by the respondents individually broadly denying the allegations of the petitioners. It has been stated in the reply of Sh. Ranjoth Singh, Inspector, SHO, P.S. Mansa that a report under section 173 Cr.P.C. had been submitted before the trial Court. It has come in the reply of Shri Bhagwant Singh, Chief Inspector Fertilizers on behalf of respondent No. 1 that cancellation of registration of the certificate of registering authorities under Clause 31 and its restoration by the Appellate Authority under Clause 32 of the Fertilizers Control JUDGMENT 1985 and the filing of Criminal proceedings under the Essential Commodities Act, 1955 are separate independent proceedings and as such acceptance of the appeal of the petitioners firm have nothing to do with the registration of the Criminal case against the petitioners firm.

4. Learned counsel for respondent No. 3 Mr. Chopra has even contested the claim of the counsel for the petitioners that the petitioners have been completely exonerated by the appellate order of the Director Agriculture. Mr. Chopra states that from the perusal of Annexure P2 i.e. appellate order of the Director Agriculture, it is clear that while deciding the appeal, the Appellate Authority gave positive findings that the firm did not make any entry in the stock register on page 12 and entry No. 12 of 40902 bags and the said entry was inserted later on in order to save the skin of the petitioners firm. He further submits that it is established from the perusal of the appellate order of the Director Agriculture that the petitioners firm had made false entries in their old stock register at page 12 bearing entry No. 12. According to him a clear cut case has been made out against the petitioners and it is not the case of quashing of the first information report as argued by the learned counsel for the petitioners. He has further stated that the first information report against the petitioners is not liable to be quashed. Even otherwise as according to him challan against the petitioners have been but in the Court and a charge has not yet been framed against the petitioners. He has cited *Union of India v. B.R. Bajaj*, 1994(1) RCR 591, *State of Haryana & others v. Ch. Bhajan Lal and others*, AIR 1992 SC 604 and *K.M. Mathew v. State of Kerala & another*, 1992(1) RCR 232 to substantiate his arguments. Learned counsel argued that the FIR may not be quashed at this stage when the challan has been presented in the Court and prima facie case is made out against the petitioners.

5. I have heard the learned counsel for the parties at length. Admitted facts are that the Police Report under Section 173 Cr.P.C. has been presented to the Magistrate after completion of the investigation of the material collected by the Investigating Officer, is under the gaze of the Judicial scrutiny. I do not consider it proper to quash the first information report and further proceedings thereon at this stage. For this opinion, I am fortified by a binding precedent of the Supreme Court in *State of Bihar and another v. P.P. Sharma & another*, 1991(2) Cr.L.J. 1438. The relevant portion of the judgment of the Supreme Court is reproduced as under :

"We are of the considered view that at a stage when the police report under

section 173 Cr.P.C. has been forwarded to the Magistrate after completion of the investigation and the material collected by the Investigating Officer is under the gaze of judicial scrutiny, the High Court would do well to discipline itself not to undertake quashing proceedings at that stage in exercise of its inherent jurisdiction. We could have set aside the High Court judgment on this ground alone but elaborate argument having been addressed by the learned counsel for the parties we thought it proper to deal with all the aspects of the case."

6. The authorities cited by the learned counsel for the petitioners are not relevant to the factual position in this case. After reading F.I.R. and scrutinising the other material on the record, it is difficult to reach at a conclusion that no prima facie case is made out against the petitioners. Even the contention of the learned counsel for the petitioners that his clients have been exonerated by the Appellate Authority have been contested by the learned counsel for the respondent Mr. Chopra. According to me, it is not a stage for appreciating the rival contentions of the parties. The right forum is the trial Court who after appreciating the scrutinising the whole record of the case, is entitled to arrive at a conclusion as to whether a prima facie case is made out or not.

7. Thus, taking into consideration the factual as well as legal position, I do not consider it a fit case to quash the first information report and the further consequent proceedings. Consequently, this petition is dismissed.