(1983) 08 P&H CK 0096

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 3209-M of 1983

Sirhind Traders (Registered) Head Office Sirhind	APPELLANT
Vs	
State of Punjab and another	RESPONDENT

Date of Decision : 08-08-1983

Acts Referred:

Citation : (1983) 08 P&H CK 0096

Hon'ble Judges : B.S.Yadav, J

Advocate : Mohinder Gupta, Sarwan Singh, Advocates for appearing Parties

Judgement

B.S. Yadav, J.

1. The petitionerfirm through its partner Bhagat Singh has filed this petition under section 482 of the Code of Criminal Procedure for quashing First Information Report No. 177 dated 10th June, 1983 registered against it in Police Station, Jagraon, for violation of the provisions of the Prize Chits and Money Circulation Scehems (Banning) Act 1978 (for short the Act)

2. The brief facts according to the first Information Report, are that one Hari Singh, after reading an advertisement about Janta Scheme, went to the office of the Firm. There Bhagat Singh and his employee Sarwan Singh were present and were selling tickets of Rs. 40/ each. Hari Singh purchased a ticket from Sarwan Singh bearing No. 3367. Sarwan Singh said at that time that after expiry of 90 days articles worth Rs. 120/ would be given to him. Hari Singh further expressed his apprehension that the aforesaid two persons wee giving false hopes by inviting persons and he alongwith others would be deceived and those persons would run away.

(Note : There is a mistake in the translation of the First Information Report reproduced in the petition. Whatever Sarwan Singh had said at the time of sale of the ticket had not been reproduced in the translation).

3. The learned counsel for the petitioner argued that the above allegations do not

make out a prima facie case under the Act. He read out the definition of "money circulation scheme" as given in section 2(c) of the Act. That definition reads as follows :

""Money circulation scheme'' means any scheme, by whatever name called, for making of quick or easy money, or for the receipt of any money or valuable thing as the consideration for a promise to pay money, on any event or contingency relative or applicable to the enrollment of members into the scheme, whether or not such money or thing is derived from the entrance money of the members of the such scheme or periodical subscriptions:"

He argued that the said definition was interpreted by their Lordship of the Supreme Court in State of West Bengal and others v. Swapan Kumar Guha and others, A.I.R. 1982 Supreme Court 949. He pointed out the following passage :

"In order to give meaning and content to the definition of the expression `money circulation scheme'' which is contained in S. 2(c) of the Act, one has therefore, to look perforce to the adjectival clause which qualifies the words "for the making of quick or easy money". What is within the mischief of the Act is not "any scheme, by whatever name called, for the making of quick or easy money" simplicitor, but a scheme for the making of quick or easy money, "on any event or contingency relative or applicable to the enrollment of members into the scheme", (whether or not such money or thing is derived from the entrance money of the members of such scheme or their periodical subscriptions). Two conditions must therefore, be satisfied before a person can be held guilty of an offence under S. 4 read with Ss. 3 and 2(c) of the Act. In the first place, it must be proved that he is promoting or conducting a scheme for the making of quick or easy money and secondly, the chance or opportunity of making quick or easy money must be shown to depend upon an event or contingency relative or applicable to the enrollment of members into that scheme."

4. Though the First Information Report is cryptic and appears to have been drawn up in a hurry but I am of the opinion that the conditions laid down by their Lordships of the Supreme Court are satisfied in the present case. For making quick or easy money, the Firm is enrolling members and for the receipt of money received from the members it is offering more money or valuable thing as the consideration on the happening of an event i.e. the expiry of the fixed period. Thus borrowing the words of their Lordships of the Supreme Court used in the above case it is clear that the Firm is carefully arranging a systematic programme of action between two or more persons under which the subscriber agrees to advance or lend money on promise of being paid more money on the happening of an event (i.e. the expiry of 3 months) applicable to the enrollment of the members into the programme and reciprocally the Firm which is conducting the programme, promise on receipt of an advance or loan to pay more money on the happening of the above event.

5. Moreover, the case is still under investigation, At this stage it cannot be said

that no cognizable offence is made out against the accused.,

6. In Swapan Kumar''s case (supra) the facts were somewhat different. In that case the Firm was offering very high interest on the amount deposited within the definition of `money circulation scheme''.

7. For the foregoing reasons, I do not find any ground for quashing the First information Report and consequently the present petition is dismissed.