

(1991) 01 P&H CK 0070

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 11881-M of 1990

Vijay Kumar

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 02-01-1991

Acts Referred:

Citation : (1991) 3 RCR(Criminal) 525

Hon'ble Judges : S.D.Bajaj, J

Advocate : J.S. Toor., M.S. Gill, J.S. Chahal, Advocates for appearing Parties

Judgement

S.D. Bajaj, J.

1. District Food and Supply Controller, Faridkot, reported to S. S.P. Faridkot, vide his memo No. 90/8576 dated 4th July, 1990 its follows :

"Subject : Regarding registration of a law against Moga Gas Service, Moga.

I got complaints against M/s Moga Gas Service, Moga, that they are selling short weight cylinders and are charging more money than the fixed price and they sell cylinders to other unauthorised persons. In this connection on 29/6/90 at 10.40 a.m. Shri Inderjit Singh, Assistant District Food and Supplies Controller, Faridkot and his office officials raided the Showroom and the godown of the said firm, report of which is attached. According to the report, in addition to the above. Shri M. S. Gujral, Officer of the Indian Oil Corporation was also present there and weighing of cylinders caught was got done in the presence of Shri Kumar and 'superdari' of the said cylinders was entrusted to Vijay Kumar and at that time Vijay Kumar son of Sadhu Ram Singla, Ex. President of the Municipal Committee, Moga, owner of the Quality Test House, Railway Road, Moga, was also present.

From the above it is proved the Moga Gas Service have violated the provisions of the clause 6(6)(2) of the Liquefied Petroleum Gas Regulation of Supplies and Distribution JUDGMENT 1981.

Therefore, FIR be registered and action be taken against them and a copy of the

FIR may be supplied to this office for record."

First Information Report No. 83 dated 21st June, 1990 was registered against the petitioner on its basis in Police Station City Moga, district Faridkot under sections, 420/465/468/471 of the Indian Penal Code. Alleging that the only allegation in the First information Report was of liquified petroleum gas cylinders, checked in the godown of the petitioner, a gas distributor, being underweight, that these cylinders are supplied to the petitioner by the manufacturer company in a sealed condition and the seals thereon were duly intact at the time of checking and that the complaint in regard to cylinders being underweight could be filed by the Director Metrology, and not by the Food and Supplies Office. I was asserted that special jurisdiction vested in the Director of Metrology appointed under the Standard Weights and Measures Act, 1976, excluded the general jurisdiction of the Police under the Indian Penal Code and that the charge under sections 420/465/468 and 471 of the Indian Penal Code was, therefore, wholly groundless.

2. I have heard Shri J. S. Chahal, Advocate, for the petitioners, Shri J. S. Toor, Advocate, for the State and have carefully gone through the contents of the First Information Report and its supporting material.

3. There is nothing said in the report of Shri Inderjit Singh, Assistant District Food and Supplies Controller dated 29th June, 1990 about the charging of more money over and above the fixed price of cylinders and sale of cylinders by the petitioner to the unauthorised persons. The charges under sections 420/465/468/471 of the Indian Penal Code are thus obviously groundless,

4. Then again complaint in regard to the gas cylinders having been found underweight could in terms of section 72 clause (a) of the Standard Weights and Measures Act, 1976 be filed by Director of Metrology in writing to the Judicial Magistrate First Class having jurisdiction in the area at Moga. The relevant legal provisions read :

"Cognizance of offences etc. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 :

(a) no court shall take cognizance of an offence punishable under this Act except upon a complaint, in writing, made by the District (sic) or any other authorised Offices.

(b) no court inferior to that of Metropolitan Magistrate or a Judicial Magistrate of First Class shall try an offence under this Act."

District Food and Supplies Controller could move the Director Metrology and not the Police in this regard. Special jurisdiction conferred on the Director aforesaid excludes general pervading and selfassumed jurisdiction of the Police under general criminal law. Criminal Misc. No. 1188M of 1990 is thus allowed and First Information Report No. 83 dated 21st June 1990 registered against the petitioner under sections 420/465/468 and 471 of the Indian Penal Code in Police Station Moga is quashed.

JUDGMENT accordingly.