
(2001) 09 P&H CK 0056
In the Punjab And Haryana At Chandigarh
Case No : Crl.Misc. No. 35049-M of 2000

Vimal & Co., Grain Market, Mullanpur

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 05-09-2001

Acts Referred:

Citation : (2002) 2 RCR(Criminal) 56

Hon'ble Judges : V.M.Jain, J

Advocate : Mr. Arun Chandra, Advocate.For the State of Punjab, Mr. G.S. Gill, DAG., Advocates for appearing Parties

Judgement

V.M. Jain, J.

1. This is a petition under Section 482, CrPC, filed by the accusedpetitioner, seeking quashment of the criminal complaint under Section 3(k)(I), 17, 18, 19, 29 and 33 of the Insecticides Act, 1968 (hereinafter referred to as the Act) read with Section 27(5) of the Insecticides Rules, 1971 (hereinafter referred to as the Rules) and also seeking quashment of all subsequent proceedings, arising out of the said complaint.

2. In the petition, it was alleged that the petitioner had been prosecuted, being the dealer. It was further alleged that even as per the averments in the petition, the Insecticides Inspector had drawn a sample of Butachlor 50% from the onelitre pack/container. It was alleged that the petitioner was selling the insecticides in sealed containers in the original form, as obtained from the manufacturer and the petitioner could not be prosecuted on that account.

3. Annexure P1 is the copy of the complaint, lodged by the State through Insecticides Inspector against the present petitioner and others, in which it was mentioned that the petitioner was in possession of 100 containers of JOLT Brand Butachlor 50% of onelitre packing and that he had selected at random one container, out of 100 containers manufactured by M/s Jay Shree Rasayan Udyog Ltd. and that after opening the seal of the selected container, he made it

homogeneous and put it in three specified tin containers, approximately 250 ml quantity of the insecticide and duly sealed the same.

4. In para 5 of the written reply, filed by Sh Gurcharan Singh, Insecticides Inspector, it was admitted that the sample was taken from the sealed container.

5. Learned counsel for the accusedpetitioner has submitted before me that where the sample was taken from sealed packing in the original pack supplied by the manufacturer and the sample was found to be misbranded, the dealer could not be prosecuted and as such the prosecution of the present petitioner, being the dealer, was liable to quashed. Reliance was placed on the law laid down by this Court, in the case reported as M/s Jandu Mal Desh Raj v. State of Haryana, 1996(3) Recent Criminal Reports 736 , M/s. Karma Chand and Sons v. State of Punjab, 1998(4) Recent Criminal Reports 383 , M/s. Shelja Pesticides Centre, Abohar v. State of Punjab, 1998(4) Recent Criminal Reports (Criminal) 533 , Hardit Singh v. Union of India, 1998(4) Recent Criminal Reports 865 and M/s Punjab Pesticides v. State of Punjab, 1998(4) Recent Criminal Reports 648 .

6. After hearing counsel for the parties and perusing the record, in my opinion, the present petition must be allowed and the prosecution of the present petitioner must be quashed.

7. In 1996(3) Recent Criminal Reports 736 (supra), it was held by this Court there was no warrant for the continuance of the prosecution against the dealer, M/s Jandu Mal Desh Raj and its proprietor, Sushil Kumar, in the face of this allegation in the complaint that the sample when taken was in the sealed packing, in the original pack. It was held that in view of the provisions of Section 30(3) of the Act, the dealer could not have been prosecuted when the dealer supplied the insecticides to the Insecticides Inspector in the same condition, in which it had been purchased by him from the manufacturer. Accordingly, the criminal complaint and all consequential proceedings, against the dealer, were quashed by this Court. Similar law was laid down by this Court, in the other authorities, referred to above, and relied upon by learned counsel for the accusedpetitioner.

9. In view of the above, in my opinion, so far as the presentation is concerned, the prosecution of the present petitioner, being the dealer, is also liable to be quashed, besides all subsequent proceedings, taken thereon. Thus, the present petition is allowed, the criminal complaint and all subsequent proceedings taken thereon, against the accusedpetitioner, are hereby quashed.