
(1994) 08 P&H CK 0067

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 17119-M of 1993

V.K.Pahwa

APPELLANT

Vs

State of Punjab through Insecticide Inspector

RESPONDENT

Date of Decision : 09-08-1994

Acts Referred:

Citation : (1994) 3 RCR(Criminal) 377

Hon'ble Judges : V.K.Jhanji, J

Advocate : S.K. Bhanot, Ravinder Chopra, Advocates for appearing Parties

Judgement

V.K. Jhanji, J. (Oral)

1. This will dispose of Criminal Misc. No. 17119M of 1993, "V.K. Pahwa v. State of punjab".

2. This petition have been filed under Section 482, Criminal Procedure Code, read with Article 227 of the Constitution of India for quashing complaint under Sections 3K(i), 17, 18,29 and 33 of the Insecticide Act, 1968, read with Rule 7(5) of the Insecticide Rules, 1971, pending in the court of Chief Judicial Magistrate, Ferozepur.

3. The brief facts for the disposal of this petition are that on 2611992, Agricultural Inspector visited the shop of M/s Sandhu Chemical Store, Zira, and took sample of 2,4D Ethyl Cater 34% EC bearing batch No. 101 having manufacturing date 10/91 and expiry date 9/93. After taking sample, the same was sent to the State Insecticide Laboratory, Ludhiana, and the sample was found misbranded as it did not conform to the ISI specifications, with respect to its per cent active ingredients contents. The active ingredients contents in the sample were 31.08% instead of 34%. On this account, the same was declared misbranded, resulting into filing of a complaint against the petitioner as well as against the dealer and the distributor. Petitioner has alleged that before launching prosecution, it was necessary to obtain legal sanction from the State Government under Section 31 of the Insecticide Act, 1968 (in short, the Act).

According to the petitioner, no valid sanction has been granted for prosecution of the petitioner. The Sanctioning Authority did not apply its mind before granting sanction to launch prosecution and gave the sanction on a cyclostyled proforma. No details of the facts regarding the same being misbranded were given. Even the name of the petitioner against whom complaint has been filed, has not been mentioned in the sanction.

4. In the return filed by the respondents, it has been stated that the sanction granted by the Sanctioning Authority was proper and legal and it was accorded after perusal of the relevant record. Petitioner is the Divisional Manager of M/s Tropical Agro System Private Limited, Madras, a registered manufacturer. Though the name of the Divisional Manager was not mentioned in the sanction order, but nevertheless he was liable and the sanction was proper.

5. Having heard learned counsel for the parties at some length, I am of the view that complaint against the petitioner deserves to be quashed. Complaint has been filed against Amrik Singh son of Sarain Singh, Sole proprietor of M/s. Sandhu Chemical Store, Zira (dealer), Amarjit Singh son of Kapur Singh, sole proprietor of M/s Deep Kheti Store, Zira, distributor and V.K. Pahwa, Divisional Manager of M/s Tropical Agro System Private Limited, i.e. the petitioner. Copy of the sanction under Section 31(1) of the Act shows that the sanction to prosecute was given against M/s. Sandhu Chemical Store, Zira, (dealer), M/s. Deep Kheti Store, Zira (distributor) and M/s. Tropical Agro System Limited, 404, Satyam Cinema, Ranjit Nagar, New Delhi (manufacturer). The name of the petitioner does not find mention in the sanction order. Moreover, in the complaint, it has not been mentioned as to how the petitioner was being prosecuted when there is no sanction granted for his prosecution by any competent Authority. Section 31(i) of the Act reads as under:

"No prosecution for an offence under this Act shall be instituted except by or with the consent of the State Government or a person authorised in this behalf by the State Government".

According to the aforesaid Section, the Court cannot take cognizance of the offence under the Act, except when a proper sanction is granted by the State Government or a person authorised in this behalf by the State Government. For the sanction to be valid, it has to be established that sanction was given in respect of the facts constituting the offence with which the accused is proposed to be charged and it is desirable that the facts should be mentioned in the sanction. Sanction in the present case was given in a stereotype form, where in only the name of the firm, dealer, distributor and the company of the manufacturer and also the various Sections of the Act under which the firms and the company were to be charged, are mentioned. It does not contain the name of the Insecticide Inspector who took the sample, and how the same was found to be misbranded. In the absence of these particulars, it cannot be said that the person authorised by the State Government to grant sanction fully applied his mind and consented to the prosecution of the petitioner after his full satisfaction

regarding the commission of offences. As already noticed, even the name of the petitioner does not find mention in the sanction order.

6. Consequently, this petition is allowed and the complaint, Annexure P1 as well as subsequent proceedings arising therefrom, stand quashed.