

Ramesh Chandra Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Apr-24-1991

Reported in : 1991CriLJ2645; 1992(1)WLC284

Judge : N.K. Jain, J.

Acts : Insecticide Act, 1968 - Sections 20, 21, 24, 29(1) and 31; Code of Criminal Procedure (CrPC) - Sections 482

Appeal No. : S.B. Cri. Misc. Petn. No. 338/87

Appellant : Ramesh Chandra

Respondent : State of Rajasthan

Advocate for Def. : V.S. Choudhary, Public Prosecutor

Advocate for Pet/Ap. : N.P. Gupta, Adv.

Disposition : Petition allowed

Judgement :

ORDER

N.K. Jain, J.

1. This petition is directed against the order dt. 12-10-87 passed by learned Additional Sessions Judge No. 1, Hanumangarh whereby he reversed the order of

learned Judicial Magistrate No. 1, Hanumangarh dt. 25-1-86.

2. Brief facts which give rise to this petition are that on 11-9-80 one Kundan Singh Gil, District Agriculture Officer, Hanumangarh collected sample of Methyle Parethon from Chawla and Company-petitioner No. 3, is Insecticide Inspector. The sample was sent for Chemical Examination to Deputy Director, Quality Control, Durgapura, Jaipur on 12-9-80 which was reported to be misbranded. Shri Kundan Singh Gil, Ex. District Agriculture Officer, Hanumangarh after obtaining necessary sanction against the petitioners filed a complaint for the offence Under Section 29(1)(a) of the Insecticide Act on 25-9-82. The learned Magistrate dismissed the complaint on 25-1-86. Being aggrieved by the order, the State filed a revision which was allowed by the learned Additional Sessions Judge No. 1, Hanumangarh on 12-10-87. Hence this misc. petition Under Section 482, Cr. P.C. has been preferred by the petitioner.

3. Mr. N.P. Gupta, learned counsel for the petitioner has contended that the order of learned Additional Sessions Judge is illegal on three counts; (i) individual sanction by name was not obtained, (ii) District Agriculture officer, was not authorised to take sample for that particular area and placed reliance on M. Ramaswamy v. State Crimes VI-1988 (2)-314, Lachhi Ram v. Inspector Insecticides, RLW-1979-149 : (1980 Cri LJ NOC 93 (Raj) P.R. Neelkanthan v. The State of Rajasthan, 1986 RLR 172 : (1986 Cri LJ 1811) and Salil Singhal v. State of Raj (S.B. Cr. Misc. Petn. No. 615/86) decided on 16-10-87 at Jaipur Bench, and (iii) the report was not delivered within 60 days thus it is violative of the provisions of Section 24 of the Insecticides Act and the entire proceedings against the petitioners amount to abuse of the process of the court.

4. Mr. V.S. Choudhary, learned Public Prosecutor has opposed these arguments and submitted that the order of learned Additional Sessions Judge has rightly been passed so no interference is called for.

5. I have heard Mr. N.P. Gupta, learned counsel for the petitioners and Mr. V.S. Choudhary, learned public prosecutor and perused the record. The prosecution can be instituted for an offence Under Section 20 on the written consent of the person authorised by Central or the State Government so where written consent is

a condition precedent, the competent authority shall give consent Under Section 31 after applying its mind that who has committed offence and who is to be prosecuted as have nexus between them.

6. In the instant case the sanction was accorded against the petitioner No. 3 only, therefore, no proceedings can be initiated against the petitioners Nos. 1, 2 and 4 as sanction by name was not granted in view of *Lachhi Ram v. Inspector Insecticides* (supra), *P.R. Neelkanthan v. The State of Raj* (supra) and *Salil Singhal v. The State of Raj*. (supra).

7. To appreciate the other contention regarding jurisdiction raised by learned counsel for the parties, it would be proper to read Section 20 of the Act which provides that Insecticide Inspectors are to be appointed for such areas and these areas have to be specified in the Notification according to Section 21 of the Act which provides that a Inspector is to discharge the function and exercise powers of inspection, examination, taking samples etc. so the preliminary requirement is that a person collecting samples should be an Inspector appointed and authorised for that particular area. As per Serial No 4 and 15 of the Government Notification No F4(4) Agr/ Gr.2/A/79 dt. 31-7-79 published in the Rajasthan Gazette dt. 9th Aug. 79, the Assistant Plant Protection Officer has been appointed as Insecticides Inspector and have jurisdiction over Sri Ganganagar, Churu, Bikaner District (Revenue Districts) and the District Agriculture Officer has been appointed and have jurisdiction over area Sadul Sahar, Hanumangarh Nohar, Bhadra, Suratgarh Panchayat Samities, so, according to notification jurisdiction to take sample from the respective area has been given with a view to avoid conflict and overlapping of jurisdiction.

8. In the Instant case admittedly, the establishment of petitioner No. 3 situated in municipal limits of Hanumangarh i.e. outside the Panchayat Samiti of Sadulsahar, Hanumangarh, Nohar, Bhadra and Suratgarh. The District Agriculture Officer, Hanumangarh has taken sample from the petitioners' firm which was situated in municipal area Sabji Mahdi Hanumangarh town, whereas he was authorised to take sample from the Panchayat Samiti area only but the learned Appellate Court has reversed the finding of the learned trial Court on the ground that the head

office of the District Krishi Officer was situated in the municipal area of Hanumangarh and he was entitled.

9. In *M.Ramaswamy v. State* (supra) a sample of milk was lifted by Food Inspector, who was Sanitary Inspector, from a hotel of Erode Municipality. The respondent as Food Inspector took the sample but he was Sanitary Inspector of Ward No. 4, it was contended that his power to act as Food Inspector is restricted to that area for which he has already exercised jurisdiction as Sanitary Inspector prior to his appointment as Food Inspector. It was observed as under:--

'The contention of the learned public prosecutor that, as Food Inspector, he has every right to take samples from the entire areas of the Erode Municipality cannot be accepted. His jurisdiction must be restricted to the area over which he was the Sanitary Inspector. As otherwise, there is bound to be conflict and overlapping of jurisdiction between the officers occupying similar posts in different areas within the municipality as pointed by the Allahabad High Court in *Ram Dulary v. The State*. It follows that the respondent had no jurisdiction to take samples from this hotel and the prosecution must fail.'

10. Therefore, in my view, the approach of the learned Judge is wrong because vide aforesaid notification they have been given separate area to exercise jurisdiction over respective area and the District Agriculture Officer cannot assume jurisdiction merely on the ground that the head office of the District Krishi Officer was situated in the municipal area.

11. As discussed above, the District Agriculture Officer has no jurisdiction, so the entire proceedings are vitiated, and if proceedings are allowed to continue, in my opinion, it will amount to abuse of the process of the court and to secure ends of justice, the order passed by learned Additional Sessions Judge reversing the order of learned Magistrate deserves to be set aside.

12. In the result, this petition is allowed and the pending proceedings against the petitioners in Criminal case No. 321/82 in the court of Judicial Magistrate No. 1, Hanu-mangarh are set aside.

