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Court : Rajasthan

Decided On : Mar-27-2006

Reported in : RLW2006(3)Raj2023; 2006(4)WLC352

Judge : Harbans Lal, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 482; [Insecticides Act, 1968](#) - Sections 13

Appeal No. : S.B. Criminal Misc. Petition No. 100 of 2004

Appellant : Arvind Kumar Tyagi and anr.

Respondent : State of Rajasthan and anr.

Advocate for Def. : Ashwani Sharma, PP

Advocate for Pet/Ap. : Raj Kamal Gaur, Adv.

Disposition : Petition allowed

Judgement :

Harbans Lal, J.

1. The present misc. petition Under Section 482 Cr.P.C. by petitioners Arvind Kumar Tyagi and M/s. Jai Shree Agro Industries Ltd. seeks quashing of the proceedings initiated against them.

2. Briefly stated the relevant facts giving rise to this petition are that petitioner No. 2 M/s. Jai Shree Agro Industries Ltd. is a pesticide (Insecticide) manufacturing Industry and petitioner No. 1 Arvind Kumar Tyagi is its employee. License Under Section 13 of the [Insecticides Act, 1968](#) was obtained. The sample was taken on 21.7.1998 by the Insecticide Inspector and on examination it was found that it does not conform to the relevant prescribed specification as per the report of the Analyst dated 10.9.1998.

3. The notice was sent to M/s. Kishan Beej Bhandar and also to petitioner No. 2 on 24.9.1998. Reply to the said notice was given by petitioner No.2 vide letter/reply dated 5.10.1998 within 28 days praying for re-examination of the samples but the same were not sent for re-examination. After expiry of shelf-life on January 1999, complaint was filed on 9.9.1999 i.e. much long after the expiry of the shelf-life of the sample. Petitioners therefore, have approached this Court invoking its inherent jurisdiction for quashing of the proceedings launched against them.

4. I have heard learned Counsel for both the sides and have perused the relevant record as well as the authorities in the cases of Tikayat Kishan Vikas Kendra and Ors. v. State of Rajasthan and Ors. 2005 (9) RDD 3721 (Raj) of this Court and Gupta Chemicals Pvt. Ltd. and Ors. v. State of Rajasthan and Anr. 2002 (2) WLC (SC) Criminal 79 of the Apex Court.

5. In M/s. Gupta Chemicals Pvt. Ltd. (supra), the Hon'ble Apex Court has quashed the proceedings pending before the trial Court on the ground that accused had applied to have the sample re-tested within time but the same was not got re-tested due to inaction on the part of the authority and in the meanwhile shelf-life of the sample expired. It was, therefore, held that no useful purpose would be served in continuing the proceedings which the High Court ought to have quashed.

6. This Court in the aforementioned authority quashed the proceedings relying upon the judgment of the Apex Court in the case of M/s. Gupta Chemicals Pvt. Ltd. (supra). The facts of the present case are identical to the aforesaid cases and, therefore, the ratio dandi laid down in the aforesaid cases squarely applies to the facts of the present case and the proceedings in the instant case also deserve to be quashed.

7. Learned Public Prosecutor has also not refuted these contentions. He has rather conceded that the case being covered by the judgment of the Apex Court as well as of this Court, the proceedings are liable to be quashed.

8. Consequently, this petition is allowed and the criminal proceedings instituted on the basis of the complaint filed by the Insecticide Inspector against the petitioners are hereby quashed.

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