

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

Crl.Misc. No.M-18055 of 2011
Date of Decision : 10.8.2015

M/s V.K. Oil Industries

.....Petitioner

Vs.

State of Punjab

.....Respondent

...

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

...

Present : Ms. Vanita Sapra Kataria, Advocate for the petitioner.
Ms. Anmol Grewal, AAG, Punjab.

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1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in Digest ?

RAMESHWAR SINGH MALIK, J

Petitioner, by way of instant petition under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short), seeks quashing of Complaint No.72/2 dated 26.4.2011 under Section 7/16 (1)(a)(1) of the Prevention of Food Adulteration Act, 1954 (Annexure P-3) as well as the summoning order dated 26.4.2011 (Annexure P-4).

Notice of motion was issued and pursuant thereto, reply has been filed on behalf of the State.

Learned counsel for the petitioner submits that the impugned complaint is wholly misconceived on the face of it. The valuable right of the petitioner for getting the samples re-analysed from the Centre Food Laboratory has been violated in the present case. She refers to the report of Public Analyst

at Annexure P-2 to submit that the impugned complaint was a belated one, which was not maintainable as such. Impugning the summoning order Annexure P-4, learned counsel for the petitioner would contend that since the learned trial Judge proceeded on a totally misconceived approach, while passing the impugned summoning order, the same was not sustainable in law. She prays for allowing the present petition.

On the other hand, learned counsel for the State submits that all the issues raised by the learned counsel for the petitioner before this court, are to be raised before the learned trial court, for due consideration thereof. As on date, a factually correct and legally justified complaint has been filed and the learned trial court has rightly issued the impugned summoning order. This was the reason that while issuing notice of motion this court did not stay further proceedings pending before the learned trial court. She concluded by submitting that the legitimate prosecution is not to be quashed by this court, while exercising its inherent powers under Section 482 Cr.P.C. She prays for dismissal of the present petition.

Having heard learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this court is of the considered opinion that in the given fact situation of the present case, instant one has not been found to be a fit case warranting interference at the hands of this court, while exercising its inherent jurisdiction under Section 482 Cr.P.C., for the following more than one reasons.

It is a matter of record that the impugned complaint is based on a raid conducted by the competent authority at the premises of the petitioner.

Recovery of 60 plastic bottles (880 gms.) each is also not in dispute. The

impugned complaint is supported by the report of Public Analyst, Punjab, dated 15.12.2010 (Annexure P-2), whereby, Public Analyst was of the opinion that the petitioner was found to have violated the relevant provisions of law. It is also a matter of record that there was no interim order passed by this court, while issuing notice of motion as far back as on 5.7.2011. A period of more than 4 years has elapsed and the trial would be about to conclude. Having said that, this court feels no hesitation to conclude that the petitioner has not been found entitled for invoking the inherent jurisdiction under Section 482 Cr.P.C.

Further, whatever arguments have been raised by learned counsel for the petitioner before this court are, supposed to be raised before the learned trial court only. It is so said because the documentary as well as oral evidence, which is not available before this court, cannot be appreciated. Once the present one has been found to be a legitimate prosecution, it cannot be quashed by this court, while exercising its inherent jurisdiction under Section 482 Cr.P.C. It goes without saying that the petitioner would be at liberty to raise all possible pleas available to it, during the course of trial, which will be considered and appreciated by the learned trial court.

After careful perusal of the impugned complaint, which is duly supported by the report of Public Analyst, it has not been found by this court that even after taking the allegations levelled against the petitioner, to be true on their face value, no offence would be made out against the petitioner. In such a situation, it can be safely concluded that the respondent-State was fully justified on facts as well as in law, to lodge the instant prosecution against the petitioner and the impugned complaint as well as the summoning order cannot be quashed in view of the above said peculiar facts and circumstances of the present case.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this court is of the considered view that the present petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the above said observations made, present petition stands dismissed, however, with no order as to costs.

10.8.2015
GS

(RAMESHWAR SINGH MALIK)
JUDGE