

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM No.M-14110 of 2011 (O&M)

Date of Decision: August 11, 2016

M/s Aradhana Drinks and Beverages Private Limited

...Petitioner

VERSUS

State (Union Territory, Chandigarh) and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.S.Cheema, Senior Advocate with
Mr.Pawan Girdhar, Advocate
for the petitioner.

Ms.Ashima Mor, Addl. Public Prosecutor
for respondent-U.T. Chandigarh.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against the respondents for quashing of the impugned order dated 29.10.2010 issuing process against the petitioner company under Section 20A of The Prevention of Food Adulteration Act and proceedings in complaint case bearing No.383 of 2004 dated 02.09.2004 titled as 'State vs. Sh.Keshav Gupta and another' pending before the Court of Chief Judicial Magistrate, Chandigarh.

Notice of motion was issued and learned Addl. Public Prosecutor for the respondents appeared and contested the petition.

Learned counsel for the petitioner argued that if there is deficiency of label on the product, then Government Food Inspector (GFI),

can see the label himself and need not to send it to the analyst. He further argued that even in the complaint and in the statement, GFI has nowhere stated that there was any deficiency in the label.

I have heard learned counsel for the petitioner as well as learned Addl. Public Prosecutor and have gone through the record.

The FSL report, copy of which is placed on the record as Annexure P-2, states that a sample of Lehar Slice Cold Drink bearing Code No. and Serial No.11989-BSR/2004/89 of Local (Health) Authority has been received on 06.07.2004 for analysis. The opinion expressed by the Public Analyst, Punjab, Chandigarh, is that the product has not been labelled in accordance with the provisions of Rule 32 of the PFA Rules 1955 as Batch No./Lot No./Code No. and month and year of its manufacturer have not been given and hence the sample is misbranded. Annexure P-1 is the order dated 29.10.2010 passed by learned CJM, Chandigarh. As per the impugned order, an application under Section 20A was moved by the accused for impleading bottler/manufacturer/distributor M/s Aradhana Drinks and Beverages Pvt. Limited through its Officers in charge as accused. It is stated in the application that cold drinks in question were supplied to the accused by the above manufacturer/bottlers and sold the said product in the same condition as was purchased by him and it was properly stored. In support of his application, accused appeared as AW1 and has stated material facts on oath also. Accused also produced the original bills Ex.AW1/A and Ex.AW1/B vide which the said articles had been purchased. The sample was drawn on 06.07.2004 and the food article was purchased vide bills dated 05.07.2004 and 06.07.2004. The Court held

that food article was purchased prior to taking of sample by the Food

Inspector as such, there are sufficient grounds to proceed against the manufacturer/bottlers and the Court summoned M/s Aradhana Drinks and Beverages Pvt. Limited through its proprietor/Director/nominee.

The perusal of the order shows that no illegality has been committed by the Court below. The mere fact that GFI himself can see that there is no date, month and year of the manufacturing and it does not have the batch number and lot number, is no ground to quash the impugned order dated 29.10.2011. Learned counsel for the petitioner relied upon the judgment passed by this Court in CRM No.M-30700 of 2010 decided on 30.10.2014 titled as 'M/s Aradhana Drinks and Beverages Pvt. Limited vs. State of Haryana and another'. I have gone through the above-cited judgment passed by this Court and the same having distinguished facts, will not apply in the present case as in that case, year of manufacturing has been printed on the product, which is not the case in the present case in hand. Otherwise also, if the sample was sent to Public Analyst and it was found misbranded on the ground that batch number, lot number, manufacturing month and year etc. have not been mentioned, it is no ground for quashing the proceedings or the summoning order.

There is nothing at this stage to show that there was any manufacturing month or year on the bottle or any batch number was given. If the report of the expert has come qua this misbranded product, this is rather on the higher pedestal. It would have been a good argument, if GFI did not send it to Public Analyst but here Public Analyst has sent the report by stating that Rules have been violated and the manufacturing date, month and year, batch number etc. have not been given. Therefore, prima facie, it

is violation of Rule 32 of PFA Rules 1955.

In view of the above discussion, I find that the summoning order dated 29.10.2010 passed by learned CJM, Chandigarh, is correct, as per law and does not amount to miscarriage of justice and the same is not liable to be quashed.

Therefore, finding no merit in the present petition, the same is dismissed.

August 11, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No