IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-1149-SBA of 2000
Date of Decision: 11.05.2017

Employees State Insurance Corporation
....Appellant

Versus

Kartar Singh
....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Adarsh Malik, Advocate, for the appellant.
None for the respondent.

RAMENDRA JAIN, J.

Complainant – Employees State Insurance Corporation (hereinafter referred to as 'the Corporation') has filed the instant appeal under Section 378(4) of the Criminal Procedure Code against the judgment dated 12.10.1999, acquitting the respondent in a complaint case filed under Section 85(e) of the Employees State Insurance Act, 1948 (hereinafter referred to as 'the Act'), passed by learned Judicial Magistrate Ist Class, Ludhiana.

2. The appellant-Corporation by way of a complaint under Section 85(e) of the Act sought prosecution of the respondent on the allegations that the respondent being the principal employer of M/s Kartar Machine Tools (Regd.) though was covered under Section 2(17) of the Act, but failed to submit its return in compliance of Sections 39, 40(1), 43 and 44 of the Act read with Regulations, 1950 for the period ending 31.03.1998 and thus, were punishable under Section 85(e) of the Act. The learned Judicial Magistrate Ist Class, Ludhiana, after summoning, served notice of accusation under Section 85(e) upon the respondent to which he pleaded not guilty and claimed trial. The appellant-Corporation in support of its case examined its Insurance Inspector (Legal) Sh. J.C. Dhingra as PW-1. The respondent in his statement under Section 313 Cr.P.C. denied all the

prosecution allegations and pleaded false implication and that no notice was received by him. However, the respondent did not lead any evidence in his defence.

3. After hearing both the sides, learned trial Court acquitted the respondent vide judgment dated 12.10.1999 holding that since the respondent has already been convicted for the serious offences of failure to pay the contribution for the period from 01.10.1997 to 31.03.1998, therefore, he cannot be convicted for the same period on account of his failure to submit return of contribution to the appellant-Corporation.

4. Learned counsel for the appellant contended that the learned trial Court has committed grave error in acquitting the respondent by observing that the respondent cannot be convicted on the same set of allegations, whereas earlier complaint was filed under Section 85(a) of the Act and the present complaint was under Section 85(e) of the Act. Learned counsel further contended that learned Magistrate failed to appreciate that the offence under Section 85(a) of the Act in which the respondent was convicted was distinct from the present one under Section 85(e) of the Act and thus the acquittal of the respondent on the ground that he cannot be vexed twice for the same offence, is illegal.

5. I have given my thoughtful consideration to the submissions made by learned counsel for the appellant.

6. Admittedly, the appellant-Corporation earlier filed complaint under Section 85(a) of the Act, wherein the respondent stood convicted. However, the complaint in question filed under Section 85(e) of the Act has been rejected by the trial Court on the ground that respondent cannot be convicted twice for the same offence. The contention of learned counsel for the appellant that the sets of allegations levelled against the respondent in both the complaints were different from each other, cannot be accepted

especially when both the complaints, though have been filed separately by the appellant-Corporation mentioning different provisions/Sections of the Act, but ultimately it amounts to the same set of allegations levelled in both the complaints against the respondents. The respondent could not have been convicted again on the same set of allegations for which he has already been convicted. Therefore, I am of the considered opinion that respondent-accused has rightly been acquitted of the charge. I have gone through the impugned judgment and found no illegality or perversity in the same. Consequently, the same is affirmed.

7. In view of above, finding no merit in the appeal, same is dismissed.

(RAMENDRA JAIN)
JUDGE

May 11, 2017
R.S.

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No