

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

CRM No.M-12160 of 2016 (O&M)

Date of Decision: March 08, 2017

P.Vijay Kumar Shetty

...Petitioner

VERSUS

State of Punjab through Chief Agriculture Officer

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rakesh Verma, Advocate
for the petitioner.

Mr.Deep Singh, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing the complaint case No.58 dated 01.06.2015 under Clause 19(a) (c) (v) of the Fertilizer Control Order, 1985 punishable under Section 7 read with Section 12AA of the Essential Commodities Act, summoning order dated 12.08.2015 and all consequential proceedings arising therefrom qua the present petitioner.

Notice of motion was issued. Learned State counsel appeared and contested the petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, I find that the complaint was filed by the State

Brij Lal Jatinder Kumar, Rishi Pal proprietor of M/s Brij Lal Jatinder Kumar, H.S.Hanumanthappa, Manager Quality Control and Chief Chemist and M/s Chittari Agricare through its Managing Director under Section 19 (a)(c)(v) of the Fertilizer Control Order, 1985, punishable under Section 7 read with Section 12 AA of the Essential Commodities Act, 1955.

Learned ACJM, Sri Muktsar Sahib, vide order dated 12.08.2015, summoned the accused as the complaint was filed by the Government Servant in discharge of official duty and there was no need to examine the complainant or other witness. The present petitioner has filed this petition for quashing of complaint as well as the summoning order.

The perusal of the record shows that this petition for quashing of complaint and summoning order has been filed by P.Vijay Kumar Shetty in personal capacity as Managing Director for M/s Chittari Agricare. This petition has not been filed by M/s Chittari Agricare through Managing Director. Mr.P.Vijay Kumar Shetty is not an accused in personal capacity in the complaint. Company M/s Chittari Agricare Pvt. Ltd. is the accused but this petition has not been filed by it. P.Vijay Kumar Shetty has not been summoned in personal capacity by the Magistrate. In the complaint, the party is M/s Chittari Agricare which has been sued as accused through Managing Director. The Company has to be sued through some person and as per law, it is not necessary that Company being juristic person/entity, the Managing Director should appear in person in the Court. The company can be represented through an authorized person or through an Advocate. As P.Vijay Kumar Shetty is not accused in the present case, therefore, he cannot file the quashing petition on his behalf for challenging the summoning order or the complaint.

Learned counsel for the petitioner argued that procedure of drawing the sample has not been mentioned in the complaint. I have gone through the complaint. The procedure how to draw the sample is duly mentioned in the complaint. Learned counsel for the petitioner also argued that Managing Director cannot be sued as the Company has appointed one Quality Control Officer. The perusal of the record shows that Managing Director has not been sued, rather, the company has been made accused. Learned counsel for the petitioner further argued that Managing Director cannot be sued by name. From the record, it is clear that present petitioner has not been shown as accused by name.

The present petitioner has not been made party, rather company is a party through Managing Director and the Managing Director can be represented through any authorized person. As already discussed, the company is to contest the case through its officer or even through an Advocate.

Therefore, finding no merit in the present petition, the same is dismissed. However, it is made clear that present petitioner P.Vijay Kumar Shetty being Managing Director need not to appear in person before the trial Court. The company can be represented through any authorized person designated/appointed by the Managing Director or through an Advocate.

March 08, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No