

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

**CRM No.M-19943 of 2014 (O&M)
Date of Decision: February 14, 2017**

Kavita Joshi

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sanjeev Sharma, Senior Advocate with
Mr.Shekhar Verma, Advocate
for the petitioner.

Mr.V.P.S.Sidhu, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for setting aside the charge-sheet dated 26.04.2014 and for quashing of criminal complaint bearing No.143 dated 25.05.2013 filed under Sections 3(K)(I), 17, 18, 29 and 33 of the Insecticides Act, 1968 read with Section 27 (5) of the Insecticides Rule 1971 titled as 'State through Insecticides Inspector, Gurdaspur vs. M/s Sonu Kheti Store and ors.'.

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

At the time of arguments, learned counsel for the petitioner mainly argued on one point that present petitioner Kavita Joshi was simply a

non-executive Director, who was not paid any salary and in the complaint,

nothing has been mentioned that she is running the day-to-day affairs of the company.

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

I have gone through the complaint Annexure P-1, in which it is stated that show cause notice was given to manufacturer and their responsible persons Anil Sehgal, Quality Manager, Kavita Joshi, Director and A.S.Malhi, responsible person. The perusal of the complaint nowhere shows that the present Director is running day-to-day affairs of the company. Learned counsel for the petitioner relied upon one certificate given by Sh.S.C.Malhotra, CA, who stated that Kavita Joshi was appointed on 01.12.2004 as Director of M/s Coromandel Agrico Private Limited and she has resigned from the directorship on 01.09.2012. As per the record of the company, Kavita Joshi had not been paid any salary/fee by company as a Director at any point of time as she was a non active Director. Annexure P-3 is another certificate issued by K.K.Bhatt, Director stating the same facts. As per the record of the company also, Kavita Joshi had not been given salary at any point of time as she was non-active Director.

Learned counsel for the petitioner also brought to the notice of this Court Form 32, copy of which is Annexure P-4, which also shows that the present petitioner as Director is not associated with the Company w.e.f 01.09.2012. The perusal of these documents and complaint shows that the present petitioner is not running the day-to-day affairs of the company.

Learned State counsel has relied upon one undated affidavit, according to which A.S.Malhi and Anil Sehgal were appointed as responsible person for the conduct of business of the company under

Section 33 of the Insecticides Act. The perusal of this affidavit itself shows that these two persons have been nominated responsible under Section 33 of the Insecticides Act.

Learned counsel for the petitioner relied upon the judgment passed by Hon'ble Supreme Court in *State of NCT Delhi vs. Rajiv Khurana, 2010(3) RCR (Criminal) 912*, in which it is held as under:-

“21.The legal position which emerges from a series of judgments is clear and consistent that it is imperative to specifically aver in the complaint that the accused was in charge of and was responsible for the conduct of business of the company. Unless clear averments are specifically incorporated in the complaint, the respondent cannot be compelled to face the rigmarole of a criminal trial.”

Keeping in view the above facts and circumstances, I find that as there is no specific averment in the complaint that Kavita Joshi was Incharge and responsible for the day-to-day affairs and business of the company, therefore, complaint cannot be filed against present petitioner and it is liable to be quashed.

Therefore, finding merit in the present petition, the same is allowed. Complaint bearing No.143 dated 25.05.2013 filed under Sections 3(K)(I), 17, 18, 29 and 33 of the Insecticides Act, 1968 read with Section 27 (5) of the Insecticides Rule 1971 titled as 'State through Insecticides Inspector, Gurdaspur vs. M/s Sonu Kheti Store and ors. and all other subsequent proceedings arising therefrom, are hereby quashed qua the petitioner.

February 14, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No