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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-39807-2017

Date of Decision:- 15.11.2017

Kanwal Kishen Bhat

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Simranjeet Singh Sidhu, Advocate,
for the petitioner.

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SHEKHER DHAWAN, J.

Present petition under Section 482 of Code of Criminal Procedure (for short “the Code”) is for quashing of Complaint No.COMA/2968/2017 dated 17.08.2017 (Annexure P/12) titled **State of Punjab through Insecticide Inspector, Bathinda Vs. M/s Coromandel Agrico Pvt. Limited and others** under Sections 3 K(i), 17, 18, 29 and 33 of Insecticides Act, 1968 read with Rules 27(5) of the Insecticides Rules, 1971 along with all consequential proceedings and the impugned order, dated 17.08.2017, (Annexure P/13) passed by learned Chief Judicial Magistrate, Bathinda summoning the present petitioner alongwith others.

2. Learned counsel for the petitioner contended that the complaint,

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Annexure P/12 and the summoning order, Annexure P/13 are misuse of the process of law and the same be quashed while invoking the inherent powers under Section 482 of the Code. He has placed reliance on the judgment of Hon`ble Supreme Court in **State of NCT of Delhi Vs. Rajiv Khurana**, to contend that in the absence of specific averment in the complaint that the petitioner was Incharge of and was responsible for the conduct of the business of the company, the petitioner cannot be compelled to face the rigmarole of a criminal trial.

3. Having considered the matter in its entirety, this Court is of the considered view that as regards to the maintainability of the petition, though, there is no limit on the powers of the Court under Section 482 of the Code, but the more the power, the more due care and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings should be exercised very sparingly in the rarest of rare cases. Such a view was taken by Hon`ble Apex Court in **Madhu Limaye Vs. The State of Maharashtra, AIR 1978 SC 47**, wherein Hon`ble Supreme Court observed as under:-

“9. At the outset the following principles may be noticed in relation to the exercise of the inherent power of the High Court which have been followed ordinarily and generally, almost invariably, barring a few exceptions :-

- (1) That the power is not to be resorted to if there is a specific provision in the Code for the redress of the grievance of the aggrieved party ;
- (2) That it should be exercised very sparingly to prevent abuse of process of any Court or otherwise to secure the ends of justice;
- (3) That it should not be exercised as against the express bar of law engrafted in any other provision of the Code.”

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4. It is established that the Court must apply the test as to whether the uncontroverted allegations as made out from the record of the case and the documents submitted thereon establish the offence or not. If the Court has to observe that the matter requires examination of evidence and material on record to determine whether there is sufficient material on the basis of which, the case would end in a conviction, the Court is concerned primarily with the allegations taken as a whole whether they would constitute an offence and if so, is it an abuse of the process of Court leading to injustice. If full-fledged enquiry is required to appreciate the evidence collected, then powers under Section 482 of the Code should not be exercised and the in the present case, no case is made out to quash the proceedings.

5. In view the above, the present petition under Section 482 Cr.P.C., is without any merit and the same is not maintainable as well and stands dismissed as such. However, the petitioner shall be at liberty to avail alternative remedy as available under the law.

15.11.2017
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(SHEKHER DHAWAN)
JUDGE

Speaking/Reasoned
Reportable

Yes
Yes