

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-10224-2015

Date of decision: 09.10.2018

Varinder Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Prateek Pandit, Advocate for the petitioner.

Mr. AS Gill, DAG, Punjab.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing FIR No. 8 dated 26.01.2014 (Annexure P-1) registered under Section 420 IPC and Section 7 of the Essential Commodities Act (for short-'the Act') at Police Station Bhogpur, District Jalandhar and all subsequent proceedings arising therefrom.

Briefly, SI Satpal, SHO of Police Station Bhogpur, Jalandhar, on the basis of secret information that petitioner along with his accomplice, namely; Sunil Kumar @ Kukku and Nitin Kumar @ Kaka, was indulged in selling spurious cement less in weight, conducted a raid on the residential premises of the petitioner on 26.01.2014 and recovered 300 bags of cement. On weighment, each cement bag was found 45 kgs i.e. 5kg less. The quality of cement was also doubtful. Therefore, sample was drawn and sent to FSL Authorities.

Learned counsel for the petitioner *inter alia* contends that petitioner was wrongly booked vide FIR (Annexure P-1) under Section 7 of the Act as the cement was de-listed from the list of essential commodities w.e.f. 16.02.2002. Since, no person had ever come forward to complain that he was ever cheated and defrauded by the petitioner by supplying spurious cement less in weight, therefore, the petitioner could not have been booked and tried under Section 420 IPC also.

On the other hand, learned State counsel has not been able to refute the above submissions of learned counsel for the petitioner.

Having given thoughtful consideration to the rival submissions made by learned counsel for both the sides, this Court finds merit acceptance this petition for the reasons to follow:

Till date, even after elapsing of more than 3 years and 9 months, no FSL report has been received by the prosecution agency declaring that the cement recovered from the petitioner was of inferior and spurious quality. Therefore, the allegation against the petitioner that he, in connivance with his aforesaid co-accused, was selling spurious cement, has no legs to stand.

No independent person had made any complaint to the police against the petitioner or his aforesaid companions that they were indulged in selling spurious cement less in weight. SI Satpal, on his own on the basis of alleged secret information conducted raid and took away 300 bags of cement from the house of the petitioner. Till date, the police did not join any independent witness or disclose the name of secret informer. In the final report under Section 173(2) Cr.P.C. also, the name of secret informer has not been cited by the police.

Since, none has come forward to complain about the complicity of petitioner and his accomplice that they had cheated and defrauded him by supplying spurious cement less in weight, therefore, ingredients of Section 420 IPC are also not proved.

In view of the discussion made above, the instant petition is accepted. FIR No. 8 dated 26.01.2014 (Annexure P-1) registered under Section 420 IPC and Section 7 of the Essential Commodities Act (for short-'the Act') at Police Station Bhogpur, District Jalandhar and all subsequent proceedings arising therefrom, are quashed in ***toto***.

October 09, 2018

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No