

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

CRM-M-7224-2019 (O&M)
Date of decision : 16.12.2019

Satinder Pal Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.S. Bedi, Sr. Advocate with
Mr. Nitin Thatai, Advocate for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

ANIL KSHETARPAL, J. (ORAL)

The petitioner has been summoned as an accused in a criminal complaint filed by the State of Haryana alleging violations of the Insecticides Act, 1968 and the Rules framed thereunder.

On reading of the complaint filed by the State of Haryana, it is apparent that a sample Oxdiargyl 80% WP manufactured by M/s Saraswati Agri Chemicals (India) Private Limited, Lane-2, Phase I, SIDCO, Industrial Complex, Bari Brahmana, District Jammu (J&K), was found misbranded. State of Haryana before initiating proceedings sought sanction of the competent authority as required under the Act which was granted against the specified accused vide order dated 12.03.2013. Relevant part whereof is extracted as under:-

“Whereas (1) Sh. Satish Kumar s/o Sh. Krishan Chand, Mustafabad proprietor being the person representing the dealer; (2) M/s Krishan Chand & Sons, Anaj Mandi,

Mustafabad, Distt. Y. Nagar being the dealer; (3) Sh. Inder Deo Mahto S/o Late Sh. Sita Ram Mahto, R/o H.No.51/11, Trikuta Nagar, Jammu (J&K) Quality Control Manager (Chemist) being the responsible person representing the manufacturing company, and (4) M/s Saraswati Agro Chemicals (India) Pvt. Ltd. Lane-2, Phase-I, SIDCO, Industrial Complex, Bari Brahmana, (J&K), being the manufacturing company for the conduct of business as envisaged in Section-33 of the Insecticides Act, 1968 are liable to be proceeded against for having contravened the relevant provisions of the ibid Act and Rules framed thereunder. I am further satisfied that the launching of prosecution against the above person is necessary in public interest to meet the ends of justice.”

During the pendency of the aforesaid complaint, an application was filed by accused Nos.1 and 2 i.e. traders/dealers to implead the petitioner as an accused.

Learned Judicial Magistrate allowed the application while recording as under:-

“4. After hearing both the parties and perusing the case file very carefully, this court is of the considered view that Sh. Satyander Pal Singh, Regional Manager, Bayer Crop Science Ltd. SCF-2, Central Market, 1st Floor, near Karan Gate, Karnal is necessary to be impleaded as respondent no.5 in the present complaint, the present application is allowed. Hence, Shri Satyander Pal Singh, Regional Manager, Bayer Crop Science Ltd. SCF-2, Central Market, 1st Floor, near Karan Gate, Karnal is hereby impleaded respondent no.5 in the present case.”

This Court has heard learned Senior counsel for the petitioner

and State and with their able assistance gone through the paper book.

In the considered view of this Court, order passed by the learned Judicial Magistrate Ist Class, is liable to be set aside on the sole ground.

Learned Magistrate has impleaded the petitioner as an accused as if the Court was dealing with a civil case. Additional accused can be summoned in accordance with the procedure laid down in the Insecticides Act, 1968, if any, or the Code of Criminal Procedure. Under the Code of Criminal Procedure, the Court is required to form a prima facie opinion that some prima facie offence is made out against the additional accused sought to be summoned. In the present case, no opinion, as required, has been formed.

Keeping in view the aforesaid facts, order under challenge is set aside.

Learned Magistrate is requested to pass order afresh after considering the various aspects of the case including lack of sanction against the petitioner.

In view of the above, the present petition is allowed.

16.12.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No