

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

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CRM-M-4276-2021

Date of Decision : July 26, 2021

M/S BRAR SEED STORE

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sunil Chadha, Sr. Advocate assisted by
Mr. Akshay Chadha, Advocate
for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

Through Video Conferencing

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 482 of the Code of Criminal Procedure for setting aside the order dated 9.9.2020 (Annexure P-7) passed by the Court of learned Judicial Magistrate 1st Class(D), Ludhiana vide which the application submitted by the petitioner for issuance of directions to de-seal the shop and godown premises of the petitioner for an indefinite has been illegally dismissed and also the order dated 12.10.2020 (Annexure P-9) passed by the Court of learned Additional Sessions Judge, Ludhiana vide which the revision petition filed by the petitioner was also dismissed as being not maintainable.

Mr. Sunil Chadha, Sr. Advocate assisted by Mr. Akshay Chadha, Advocate has submitted that in the present case the petitioner

was doing the business of selling seeds, fertilizers, agricultural implements and other various commodities and on 11.5.2020 an FIR was registered against the petitioner under Sections 2, 3 and 7 of the Essential Commodities Act, 1985 Clause 3 of the Seeds (Control) Order, 1983 and Section 420 IPC in which Clauses 8 and 9, Seeds (Control) Order, 1983 and Sections 465, 467, 468 and 471 IPC were also added lateron. He submitted that as per the FIR the Chief Agricultural Officer, Ludhiana informed the police that the petitioner was violating the provisions of Seeds Control Order by selling the seeds at a higher price, without taking due permission and the sample of the seeds was not in accordance with the standard conditions. The present FIR was registered on 11.5.2020 and thereafter on 1.6.2020, the Seeds Inspector sealed the shop of the petitioner totally and seized the entire quantity of the seeds. Thereafter the petitioner filed an application for de-sealing of the shop vide Annexure P-5 before the Court of Addl. Chief Judicial Magistrate/Duty Magistrate, Ludhiana on the ground that the shop of the petitioner was wrongly sealed by the Seeds Inspector and that the stock which was there in the shop was not only seeds but fertilizers, agricultural implements, vegetable seeds etc. for which the petitioner had a licensed approval and had a right to sell those items under these licences. Thereafter vide impugned order dated 9.9.2020 vide Annexure P-7, the learned Judicial Magistrate 1st Class dismissed the application of the petitioner on the ground that the learned counsel for the petitioner had made a statement that he does not wish to press the application with regard to sale of the seeds and pesticides and since the subject matter of the application was

pertaining to seeds and pesticides only, the application would not be maintainable since the counsel has already made statement that he does not wish to contest the application. Thereafter the petitioner filed a revision before the learned Additional Sessions Judge, Ludhiana who also dismissed the same vide Annexure P-9 on 12.10.2020 on the ground that since it was an interlocutory order, the revision would not be maintainable.

Mr. Chadha, learned Senior counsel has submitted that the learned Magistrate has fallen in error while deciding the application for de-sealing. The statement made by the learned counsel for the petitioner before the learned trial Court was only pertaining to the seeds and pesticides for which he did not want to contest and this statement has also been reproduced in the petition at Para No. 1(vii) which clearly shows that the learned counsel had stated that he does not wish to contest the application qua seeds and pesticides as per instructions of his client. However, a perusal of the application would show that the application was made with a prayer for de-sealing the premises and para No.19 of the application clearly shows that the subject matter of the application also included the fact that the petitioner was not only selling seeds but also fertilizers and vegetable seeds. He further submitted that the learned Revisional Court also fell in error in dismissing the revision petition and by not appreciating that, the learned Judicial Magistrate 1st Class has also fallen in error rejecting the application of the petitioner on the sole ground that since the statement has been made by the learned counsel for the petitioner before the trial Court that he does not wish to contest with

regard to seeds and pesticides.

Learned Sr. counsel further submitted that the petitioner's shop engages in the activity of not only selling the seeds and pesticides but also fertilizers, vegetable seeds, agricultural implements and other things and the entire sealing of his shop for indefinite period has prejudiced his rights and it has been almost 1½ years that he has not been able to do any business from the shop. He further submitted that the entire stock of the seeds has since been sealed by the authorities and there is no stock of seeds lying in the shop and, therefore, no useful purpose will be served in case the stock is kept sealed indefinitely.

Learned Sr. counsel has further submitted that even otherwise also the Seed Inspector has no authority under the law to seal the premises/shop of the petitioner. He relied upon the judgment of the Hon'ble Supreme Court in the case of **State of Maharashtra and others Vs. Maharashtra Hybrid Seeds Co. Pvt. Ltd.**, (2019 AIR (SC) 3963) to contend that although the Seeds Inspector has got a right to seal the shop but that can be in an exceptional and rare circumstance and that too with the permission of the Magistrate and it cannot be done in a mechanical manner. He submitted that in any case such act was done purely in a mechanical manner and without any notice to the petitioner and, therefore, in violation of the law laid down by the Hon'ble Supreme Court in Maharashtra Hybrid Seeds' case (Supra).

On the other hand, Mr. Thind, learned DAG, Punjab has submitted that it is a case where the Seeds Inspector had raided the shop of the petitioner and had confiscated the seeds which the petitioner was

selling at a higher price and were misbranded and, therefore, the petitioner has got no right to continue with the sale of the seeds. He has further submitted that so far as the license is concerned, the same has been cancelled by the authorities and the order has attained finality and, therefore, he can not sell the seeds.

Reply has been filed by way of affidavit of respondent No.2-Agricultural Development Officer-cum-Notified Seed Inspector, Ludhiana by way of e-mail since the matter is being taken up through Video Conferencing. A print out of the same is directed to be taken on record.

I have heard learned counsels for the parties.

The only dispute involved in the present case is as to whether the petitioner would be entitled for de-sealing the premises or not.

The learned Magistrate has dismissed the application of the petitioner on the ground that the learned counsel for the petitioner had made a statement that he does not wish to contest the application qua the seeds and pesticides. However, a perusal of the application made by the petitioner would show that the subject matter also included various other things i.e. fertilizers and vegetable seeds etc. The statement made by the learned counsel for the petitioner before the learned trial Court ex-facie pertained only to the seeds and pesticides and, therefore, the learned trial Court has fallen in error in rejecting the application in toto and without considering the fact that the petitioner was also dealing with other things i.e. fertilizers and vegetables seeds etc. So far as the submission made by the learned Sr. counsel that the Seeds Inspector had exceeded his

jurisdiction by mechanically sealing the shop after seizing the seeds as the same does not fall in exceptional circumstances is concerned, it would also carry weight while considering the application for de-sealing.

In view of the above, the present petition is allowed and the order dated 9.9.2020 (Annexure P-7) passed by the learned Judicial Magistrate 1st Class, Ludhiana and order dated 12.10.2020 (Annexure P-9) passed by the learned Additional Sessions Judge, Ludhiana are, hereby, set aside and the matter is remanded back to the learned Judicial Magistrate 1st Class, Ludhiana for considering the same afresh and in accordance with law and to decide it on merits.

Needless to say that the learned Judicial Magistrate 1st Class, Ludhiana shall also take into consideration the judgment of the Hon'ble Supreme Court in Maharashtra Hybrid Seeds' case (Supra) while considering the application for de-sealing. The said application shall be decided afresh as expeditiously as possible and preferably within three weeks from the date of receipt of copy of the order.

The parties shall appear before the learned Judicial Magistrate 1st Class, Ludhiana on 30.7.2021.

July 26, 2021
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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No