



CRM-M-39874-2024
139

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39874-2024
Decided on: 14.08.2024

M/s N.V. International Pvt. Ltd. and others ...Petitioners

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vikram Chaudhry, Sr. Advocate (Through VC) with
Ms. Hargun Sandhu, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Sr. DAG, Haryana (Through VC)

ANOOP CHITKARA, J.

FIR No.	Date	Police Station	Sections
203	22.06.2024	Chhapar, District Yamunanagar	120-B, 406, 420, 467, 468, 471, 473 IPC and Section 61(1)(a) of Punjab Excise Act 1914 (Haryana Amendment Bill 2020) (Sections 7, 8 & 13 of PC Act 1988 added later on)

1. Seeking quashing of FIR captioned above and also for issuance of guidelines that offence under Punjab Excise Act 1914 be not aggravated by taking resort to provisions of IPC or BNS and also to quash Look Out Circular, if any, the petitioners had come up before this Court by filing the present petition under Section 482CrPC r/w 528 & 529 of BNSS 2023.
2. To ascertain that whether the case is worth issuing notice or not, I have heard Senior Advocate Mr. Vikram Chaudhary and gone through the petition and its analysis would lead to the following outcome.
3. Petitioner No.1 is a company and petitioners No.2 & 3 were associated with the same. Petitioners’ case is that M/s N.V. International Pvt. Ltd. is one of the larger distilleries of grain alcohol and manufacturing it for last 24 years and has paid more than 100 crores Rupees of tax to Government of Haryana. Petitioner No.2 is aged 73 years, is an entrepreneur, but for last 12 years is grappling with severe depression and diagnosed with Bipolar disorder and has lately been suffering from a Post Psychotic Depression.



CRM-M-39874-2024

4. Petitioner No.3 is a law graduate with commerce background and has also qualified Chartered Accountant and is rendering professional services to the company.

5. Petitioner's counsel argued that company is a holder of D-2 License for manufacturing the following:-

1. Refined Sprit/E.N.A./(Industrial Alcohol)
2. Denatured Sprit
3. Country Liquor
4. Indian Made Foreign Sprit
5. Ethanol

6. The above captioned FIR which is sought to be quashed is annexed as Annexure P-3 and it would be relevant to extract the relevant portion, which reads as follows:-

"To The Incharge Police Station Chappar District Yamuna Nagar Subject:

Vehicle No. HR-37E-3607 Regarding checking report of country liquor loaded on the vehicle. Sir, it is requested that today on 21-6-2024, information was received from Incharge CIA 1 Yamunanagar on my mobile number 9416375779 from mobile number 8818000110 at about 5:32 PM that a TATA vehicle No. HR37 E 3607 on the NH 344 near Village Pirthi at Majra has been caught with loaded cartons of country liquor. Asked to reach on the spot. On receiving the information, the inspector along with staff reached the spot at 5:45 PM in the government vehicle No. HR02GV-2744 and the documents relating to Vehicle No. HR37 E 3607 loaded with country liquor handed over to me. According to the documents, the load in the vehicle as per pass/permit was regarding country liquor brand NV Rasila Malta 800 boxes bottles 750 ML, 200 boxes half 375 ML, 200 boxes Pavva 180 ML vide Permit number PN241900070373 dated 20.06.2024 with time 17:32:10 issued by Excise Department Yamunanagar to L-13 M/S SCOTCH STATION WINES Jagadhri Yamunanagar from M/S NV INTERNATIONAL PVT LTD BADHOLI AMBALA issued for purchasing liquor which is valid till 26.06.2024. In relation to this permit in D-2 M/S NV INTERNATIONAL PVT LTD BADHOLI AMBALA, pass number PS24190086850 on 21.06.2024 at 10:59:17 has been issued whose validity is till 13:59:00 on 21.06.2024. The vehicle was caught on the highway near Majra near Pirthi after about 3 hours after the passing of the said time. Thereafter the vehicle number HR37 E 3607 was caught by CIA-1 and after being taken to the staff, the boxes of country liquor Marka NV Rasila Malta were taken out from the vehicle and scanned. The said liquor boxes were scanned through track and trace bar code. And the boxes which were scanned by track and trace are already showing STOCK IN at time 6:11 PM in L-13 M/S SCOTCH STATION WINES Jagadhri Yamunanagar. While checking vehicle no.HR37 E 3607, a number plate with number HR58B-1652 was found and which was registered and L- 13 M/S SCOTCH STATION WINES Jagadhri Yamunanagar was locked which will be checked later and a separate report will be prepared and submitted. The STOCK after scanning through track and trace scanned is showing the STOCK IN L-13 M/S SCOTCH STATION WINES Jagadhri Yamunanagar warehouse but



CRM-M-39874-2024

the vehicle was already stopped and checked at around 5:25 PM along with the loaded cartons of liquor. According to the QR code of the liquor loaded in the vehicle, the said liquor could not exist at both the places i.e. L-13 M/S SCOTCH STATION WINES Jagadhri Yamunanagar and vehicle No.HR37 E 3607, which is a violation of Excise Act and action will be taken against the accused as per rules. Sd/- Mohan Singh Rana Excise Inspector Jagadhri Yamunanagar Mob. No.9416375779 Dated 22.06.2024 Today at Police Station At this time I ASI Jagdeep Singh No. 177/A present at police station. At this time Mohan Singh Rana Excise Inspector Jagadhri Yamunanagar came to present at the police station and presented the above complaint on basis of which case no. 203 dated 22.06.2024 under Section 420, 406, 467, 468, 471, 473, 120B IPC and 61(1)A-4-2020 found to have been committed and case registered at Police Station Chappar. Computerized copies of first information report prepared which shall be sent to the senior officers by post.”

7. Perusal of the petition does not refer to any police report filed under Section 193 BNSS or 173 CrPC and there is nothing to demonstrate that investigation in this case is complete.

8. Mr. Vikram Chaudhary, Sr. Advocate submits that primary illegality is that Punjab Excise Act 1914 extended to Haryana is a complete code and takes care of the offence as such it was absolutely illegal to invoke provisions of Indian Penal Code Sections i.e. 120-B, 406, 420, 467, 468, 471, 473 IPC. He further submits that petitioner has been seriously prejudiced for the reason that maximum sentence under Punjab Excise Act is just three years, whereas maximum sentence prescribed under the Indian Penal Code offences under 467 IPC can extend to life, thus it will seriously prejudice the petitioners. This argument has to be seen in the light of allegations made in the FIR (Annexure P-3). Perusal of the FIR (supra) clearly mentions about duplicate and counterfeit bar codes and holograms. It means there was forgery of valuable security because alcohol is state privilege which is sold only after grant of licenses and bar codes and holograms ensure that revenue has been paid.

9. Although there might be some dispute about application of Section 406 IPC but on the face of it prima facie offence under 420, 467, 468, 471 & 473 IPC is clearly inferable from the recovery of alcohol with counterfeit holograms and bar codes. Thus, on this ground alone, provisions under IPC cannot be quashed.

10. Since the petitioners' prayer is for quashing of entire FIR, a perusal of the provisions of Excise Act would prima facie point towards the contravention of possession, as such the criminal proceedings cannot be disrupted at such a initial stage and no ground exist for quashing the same.



CRM-M-39874-2024

11. Third argument is for quashing of LOC issued against the petitioner. Perusal of the petition does not refer to any specific pleadings regarding Look Out Circulars, as such in the absence of pleadings, this Court cannot adjudicate this matter and consequently the liberty reserved to the petitioner to challenge Look Out Circulars in appropriate Courts, if not already challenged in other jurisdictions.

12. Mr. Vikram Chaudhry, Sr. Advocate has referred to a number of judicial pronouncements in the compendium, however law regarding quashing of FIR and disrupting the criminal proceedings in initial stage, is well settled. In the special peculiar facts and circumstances, proceedings can only be quashed when even after hypothetically presuming all the evidence collected in the investigation does not make out a case and the present FIR is prima facie contrary, is not the said exceptional circumstances, as such this Court is not referring to 12 judgments which have been referred in the compendium because they would not apply.

13. In the entirety of facts and circumstances of the case, this is not a case for issuance of notices and the petition is dismissed accordingly with the aforesaid observation. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

14.08.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.