

Kallol Benerjee vs State (U.T. Chandigarh), Through Food ... on 21 August, 2024

Author: Rajesh Bhardwaj

Bench: Rajesh Bhardwaj

Neutral Citation No:=2024:PHHC:107123

CRM-M-37550-2024

- 1 -

121 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37550-2024

Date of Decision: 21.08.2024

Kallol Banerjee

..... Petitioner

Versus

State of UT Chandigarh

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Arshdeep Singh Cheema, Advocate, for the petitioner.

Rajesh Bhardwaj, J. (Oral)

1. The petitioner has approached this Court praying for quashing of complaint bearing No.PFA-05-2022 dated 21.09.2022 titled as State through Food Safety Officer, Health Department, GMSH-16, Chandigarh Administration Chandigarh vs. Vijay Kumar and another, filed under Sections 26(2)(i) and 59(i) of Food Safety and Standards Act, 2006 (for short, 'the Act'), pending in the Court of learned CJM, Chandigarh. Further prayer has been made for quashing of order dated 21.09.2022 and 27.04.2023 and all the subsequent proceedings arising out of the impugned complaint, as the same is gross abuse of process of law and the complaint does not disclose commission of any offence by the petitioner under the Act.

2. Precise submission made by counsel for the petitioner is that the company has been prosecuted by the respondent through the petitioner. He submits that as per the license issued by the respondent-State, the Director responsible for day to day affairs as nominated by the company, is Bipul Jha and not the petitioner through whom the company has been 1 of 3 Neutral Citation No:=2024:PHHC:107123 prosecuted. He submits that thus, prosecution of the petitioner is in

violation of the set norms under the law.

3. Notice of motion.

4. Mr. Charanjit Singh Bakshi, Addl. PP, UT, Chandigarh accepts notice on behalf of the State. He has placed on record copy of the Form C mentioning the license No.13020001000496 and nominated person as Bipul Jha. He submits that on the filing of the complaint, accused No.1 Vijay Kumar had appeared before the Court and made a statement that petitioner- Kallol Benerjee is the Director and thus, summons were issued to him by learned JMIC, Chandigarh vide order dated 27.04.2023.

5. However, learned counsel for the petitioner has submitted that Vijay Kumar had no authority to make a statement before the Court as is reflected in the order. He submits that as per the license, it is apparent that company had nominated Bipul Jha as nominee for the litigation purpose. He submits that the company would have no objection, if the impugned complaint is filed against nominated person in-charge, namely Bipul Jha.

6. Heard.

7. After hearing learned counsel for the petitioner and perusing the record, it is apparent that person nominated for day to day affair of the company is Bipul Jha and thus, prosecution of the petitioner is not as per law. Thus, the impugned orders dated 21.09.2022 (Annexure P-3) and dated 27.04.2023 (Annexure P-4) are hereby set aside qua the petitioner only and the case is remanded to learned trial Court. Both the parties would appear before the Court. The respondent-State would be at liberty to make necessary amendment for the prosecution of the company through 2 of 3 Neutral Citation No:=2024:PHHC:107123 nominated person as per the record and thereafter, the Court concerned will proceed as per law.

8. The petition stands disposed of.

21.08.2024
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE
: Yes/No
: Yes/No