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KAMALJEET SINGH VS STATE OF PUNJAB AND ANOTHER

Present:- Mr. Sandeep Singh Jattan, Advocate
for the petitioner.
Mr. M.S. Bajwa, DAG, Punjab.

This case depicts a painful saga of unholy collusion between the police officers and a gang, which was adding the chemicals in the milk in the Verka Milk Plant, Mohali. As per the FIR, which was registered on 14.07.2015, spurious milk was being supplied to the Verka Milk Plant Mohali and the milk mixed with chemicals was being supplied to the public at large.

During the course of arguments, learned State counsel has informed the Court that six accused, namely, Shamsheer Singh, Baldeep Singh, Jasvir Singh, Pawandeep Singh, Parminder Singh and Ajmer Singh were challaned by the police. However, vide order dated 09.08.2019, the Court of SDJM, Khamanon discharged all the accused and the following order was passed:-

“4. After coming to the force of Food and Safety Standard Act, 2006, vide notification dated 29.07.2010, the authorities can take action under the said Act only on account of overriding effect over all the previously existing food related laws including the Prevention of Food and Safety Act. In view of the specific provisions of Food and Safety Standard Act, 2006, the offences related to Adulteration of Food has to be tried with the procedure laid therein, which includes drawing and analysis of the samples as detailed therein. The



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provisions of penalties and prosecution have also been provided therein. Therefore, before launching any prosecution, against an offence of food adulteration, it is necessary for the prosecution to follow the mandatory requirements, as provided U/s 41 and 42 of the New Act. In other words, the police has no authority or jurisdiction to investigate the matter under Food and Safety Standard Act, 2006. Section 42 empowers the Food Safety Officer for inspection of food business, draw samples and send them to Food Analyst for its analysis. The designated officer, after scrutiny of the report of Food Analyst shall decide as to whether the contravention is punishable with imprisonment or fine only. In case, the contravention is punishable with imprisonment, he shall send his recommendations to the Commissioner of Food Safety seeking sanction for prosecution. Therefore, invoking of various Sections, under the different Acts, mentioned in the charge sheets, in the matter relating to the adulteration of Food was wholly unjustified and non-est. Further more, it appears that the charge sheet in the present case has been filed without application of proper mind and examining the matter minutely. The Investigating officer in the present case has clearly traveled beyond jurisdiction. The act and conduct on the part of the Investigating Officer, thus, calls for a strict disciplinary action/ inquiry against him by his department. The grave negligence on his part has caused harassment to the accused persons for overall these years, since 14.7.2015. Let, the copy of this order be sent to the office of SSP, Fatehgarh Sahib, through proper channel, requesting him to look into the matter.



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5. *Since, the charge sheet has been filed under the wrong provisions of law and under a repealed Act (Old Act repealed on 29.7.2010 while the date of the alleged incident/ offence in the present case is 14.7.2015), the Investigation Officer was required to consider under which provisions of Food and Safety Standard Act, 2006 the present case falls and what mandatory requirements were required to be complied with under the new Law. The matter requires to be further investigated keeping in view the Law and procedure as detailed therein. Thus, for the time being, the presence of the accused persons, before this court is hereby dispensed with and they are directed to appear before the court, as and when directed or whenever they are called by the investigating agency or designated officer to investigate the matter, afresh considering the new Law and the procedure required to be followed as discussed above. The application seeking discharge of the accused is disposed off in the afore mentioned terms. Court proceedings and documents etc., be separated from this file and it be sent complete in all respect to the concerned quarters for proceedings further with the further investigation of this case, in a proper manner.*

6. *Addl. Ahlmad of this court is directed to send the copy of this order, to the office of SSP, Fatehgarh Sahib, with the request to look into the matter regarding the working of the IO namely SI Sukhvir Singh, No. 495P. Copy of this order be also sent alongwith the file being returned to the concerned quarter for further investigation. Courts papers be consigned to the Judicial Record Room, Khamanon, after due compliance.*



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From a perusal of the order, it is apparent that the prosecution was bound to follow the mandatory requirements of Sections 41 and 42 of the Food and Safety Standard Act 2006, however, the Investigating Officer had apparently colluded with the accused. Consequently, the SDJM Khamanon directed that a strict disciplinary action/inquiry may be held against the Investigating Officer. A copy of this order was also sent to the SSP Fatehgarh Sahib to look into the matter regarding working of the Investigating Officer.

Learned State counsel is directed to place on record the copy of the status report indicating the investigation conducted so far in the present case as well as the action taken against the guilty police officials in terms of the order dated 09.08.2019 passed by the SDJM, Khamanon.

The General Manager/Principal Officer, Verka Milk Plant, SAS Nagar, Mohali is ordered to be impleaded as respondent No. 2.

The Director (Prosecution), Punjab, is also ordered to be impleaded as respondent No.3 in the present case.

The Station House Officer, Police Station, Khamanon, is directed to inform the newly added respondent No. 2 in writing with regard to the pendency of the present case before this Court as well as next date of hearing.

The respondents No. 2 and 3 shall remain present in the Court on the next date of hearing.



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The SSP, Fatehgarh Sahib, is directed to file his reply, positively, before the next date of hearing.

List on 26.02.2024.

Ms. Sheenu Sura, Advocate, who is present in the Court, is requested to assist the Court as Amicus Curiae.

Registry is directed to supply a complete set of paper book to the learned amicus curiae forthwith.

To be shown in the urgent list.

A copy of this order be handed over to the learned State counsel and amicus curiae under the signatures of the Bench Secretary of this Court for compliance.

15.02.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE