

## MUNICIPAL CORPORATION OF DELHI

v.

## PURSHOTAM DASS JHUNJUNWALA AND OTHERS

December 1, 1982

[S. MURTAZA FAZAL ALI AND E.S. VENKATARAMIAH, JJ.]

*Code of Criminal Procedure, 1973—S. 482—Complaint containing clear allegations—High Court not justified in quashing proceedings against accused.*

The facts of this case were almost identical with that of *Municipal Corporation of Delhi v. Ram Kishan Rohtagi and Ors.* (the case reported immediately before this one). However Paragraph 5 of the complaint filed in this case was in the following terms :

"That accused Ram Kishan Bajaj is the Chairman, accused R.P. Neyatiya is the Managing Director and accused Nos. 7 to 12 are the Directors of the Hindustan Sugar Mills Ltd. and were incharge of and responsible to it for the conduct of its business at the time of commission of offence."

Adopting a line of reasoning similar to the one adopted by it in the earlier case, the High Court had quashed the proceeding against the accused (respondents here).

After pointing out that the law on the subject had been dealt with in the earlier case and allowing the appeal,

**HELD :** In this case a clear averment has been made in Para 5 of the complaint regarding the active role played by the respondents and the extent of their liability and a *prima facie* case for summoning the accused has been made out. It cannot therefore be said that Paragraph 5 of the complaint is vague and does not implicate the respondents. As to what would be the evidence against the respondents is not a matter to be considered at this stage and would have to be proved at the trial. The High Court went wrong in holding that the allegations made in Paragraph 5 were vague. [897 B-D]

**CRIMINAL APPELLATE JURISDICTION :** Criminal Appeal No. 749 of 1980.

Appeal by special leave from the judgment and order dated the 5th March, 1980 of the Delhi High Court in Criminal Misc. (Main) No. 501 of 1974.

*B.P. Maheshwari* for the Appellant.

**A** *V.S. Desai and Arvind Minocha* for the Respondents.

The Judgment of the Court was delivered by

**B** **FAZAL ALI, J.** This appeal by special leave is directed against a judgment dated 5.3.1980 of the Delhi High Court by which the High Court quashed the proceedings taken by the Municipal Corporation of Delhi against respondent Nos. 1 to 11. This is a case where the facts are almost identical with the facts of Criminal Appeal No. 701 of 1980 which we have decided today, with a vital difference which we shall point out hereafter.

**C** In this case also, Shri M.M. Gupta, Food Inspector in the Municipal Corporation of Delhi purchased a sample of milk toffees from shop of Jagdish Chander Mehta situate at Lajpat Nagar, New Delhi. The milk toffees which were purchased by the food inspector were found to be adulterated by the Public Analyst. The toffees in this case were manufactured by Hindustan Sugar Mills, 51, Mahatma Gandhi Road, Bombay. A complaint was filed before the Metropolitan Magistrate against accused Nos. 1 to 12 under sections 7/16/17 of the Prevention of Food Adulteration Act mentioning the facts stated above.

**D** The High Court was of the view that the complaint did not disclose any offence and adopting a similar line of reasoning, as in criminal appeal No. 701 of 1980, quashed the proceedings against respondent Nos. 1 to 11. We have already dealt with the law on the subject in our decision in criminal appeal No. 701 of 1980, a copy of which is placed on the file of this case. The relevant allegations against the accused-respondents are to be found in para 5 of the complaint which may be extracted thus :

**E** "5. That accused Ram Kishan Bajaj is the Chairman, accused R.P. Neyatia is the Managing Director and accused Nos. 7 to 12 are the Directors of the Hindustan Sugar Mills Ltd. and were incharge of and responsible to it for the conduct of its business at the time of commission of offence."

**F** Unlike the other case, para 5 of the complaint of this case gives complete details of the role played by the respondents and the extent of their liability. It is clearly mentioned that Ram Kishan Bajaj is the Chairman and R.P. Neyatia is the Managing Director and respondents 7 to 11 are the Directors of the Mill and were incharge of

and responsible for the conduct of its business at the time of the commission of the offence whereas in the other case the complaint has merely drawn a presumption without any averment.

In the instant case, a clear averment has been made regarding the active role played by the respondents and the extent of their liability. In this view of the matter, it cannot be said that para 5 of the complaint is vague and does not implicate respondents 1 to 11. As to what would be the evidence against the respondents is not a matter to be considered at this stage and would have to be proved at the trial. We have already held that for the purpose of quashing the proceedings only the allegations set forth in the complaint have to be seen and nothing further.

From a perusal of the various clauses of the complaint, including para 5, it is quite clear that a *prima facie* case for summoning the accused has been made out and the High Court was absolutely wrong in holding that the allegations made in para 5 are vague. The High Court failed to consider that the allegations were quite clear and explicit so as to be sufficient for taking cognizance of the offence against the accused.

Further details would have to be given in the shape of evidence when the trial proceeds and in view of the clear allegations made in para 5 of the complaint, we are not in a position to agree with the High Court that it is a fit case in which it should have exercised its discretion under s. 482 of the Code of Criminal Procedure, 1973 in order to quash the proceedings against the accused-respondents.

For these reasons, therefore, we allow this appeal, set aside the judgment of the High Court and restore that of the Metropolitan Magistrate as a result of which all the accused will now be summoned and placed for trial in accordance with law.

H.L.C.

*Appeal allowed.*