

[2011] 4 S.C.R. 799

SUBHANKAR BISWAS

v.

SANDEEP META

(Criminal Appeal No. 1129 of 2006)

APRIL 07, 2011

**[HARJIT SINGH BEDI AND CHANDRAMAULI KR.
PRASAD, JJ.]**

Standards of Weights and Measures Act, 1976 – s. 19 – Complaint under, against Chairman of the Company and appellant, then Deputy General Manager, alleging violation of rr. 2, 4, 6, 8, 9 and 23 of the Rules – However, the averments in the complaint not identifying as to who was the person responsible and incharge of the affairs of the Company – Meanwhile, application filed for the compounding of the offence – Appropriate authority directing compounding of offence but the order could not be carried out – Application u/s. 482 Cr.P.C. filed by the Chairman of the Company and the appellant, then Deputy General Manager – High Court quashing the proceedings qua the Chairman – On appeal, held: There is no distinction between the case of the Chairman and the appellant – High Court did not bring out any distinction between the two – In prosecutions in such like cases no roving enquiry is permissible and an obligation rests on the prosecution to give details so that the trial can be proceeded against the persons responsible – Therefore, direction issued to quash the proceedings against the appellant in all cases – Standards of Weights and Measures (Packaged Commodities) Rules, 1977 – rr. 2, 4, 6, 8, 9 and 23.

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1129 of 2006 etc.

From the Judgment & Order dated 24.03.2005 of the High

A Court at Calcutta in CRR No. 2086 of 2004.

WITH

Crl. A. Nos. 1086, 1087, 1088 & 1089 of 2008.

B Pradeep Ghosh, Parijat Sinha, Reshmi Rea Singh, Mrinal Kanti Mandal, Vikram Ganguly, S.C. Ghosh for the Appellant.

Avijit Bhattacharjee, Sarbani Kar for the Respondent.

C The following Order of the Court was delivered

ORDER

This order will dispose of all the appeals referred to above.

D The facts have been taken from criminal appeal No. 1129/
2006. The matter arises out of a complaint under Section 19
of the Standards of Weights and Measures Act, 1976. In the
complaint it has been urged that Rules 2,4,6, 8, 9 and 23 of
the Standards of Weights and Measures (Packaged
E Commodities) Rules 1977 had been violated. In the meantime
the appellant also filed an application for the compounding of
the offence and the appropriate authority directed that the
offence be compounded. This however could not go through for
the reason that as per the allegation several similar offences
had been committed by the Company within three years. An
F application under Section 482 was thereafter filed by the
Chairman of the Company Mr. H.B.Lal and the appellant
Subhankar Biswas the then Deputy General Manager raising
several pleas, one of being based on Section 74 of the Act and
the averments made in the complaint which did not identify as
G to who was the person responsible and incharge of the affairs
of the Company. It was pointed out that in the complaint the
bare language of Section 74 had been reproduced without
naming any body as being responsible for the day-to-day affairs
of the Company. The averment made in the complaint which is
H relevant to the matter is reproduced below:

"That the persons committed this offence are companies. A
So every person at the time of offence was in charge of
and was responsible to the companies for the business
of the companies as well as the companies shall be liable
to be proceeded against the punished accordingly as per
section 74 of the Standards of Weights and Measures Act, B
1976."

It was accordingly argued in the High Court that the
complaint itself was not maintainable as it did not indicate as
to who was responsible for the day-to-day affairs of the C
Company. After hearing both sides the High Court by its order
of 24th March 2005 quashed the proceedings qua the
Chairman Mr. H.B.Lal with the following observations:

"Therefore in the absence of any specific averment
regarding the role played by petitioner No.1 M.B.Lal, who D
is the Chairman of the Corporation and there is nothing to
indicate that he was in charge of and responsible to the
Corporation relating to its day-to-day affairs of the
Corporation at the time of commission of the alleged
offence, the present application deserves to be allowed in E
part and the proceeding against the said petitioner No.1
M.B.Lal is to be quashed."

Today, before us, Mr. Pradeep Ghosh, the learned senior
counsel for the appellant, has argued that the allegations F
against the Chairman of the Company and the appellant before
us were identical and there was no distinction whatsoever
between the two and the High Court having quashed the
proceedings against the Chairman, a similar order ought to have
followed for the appellant as well.

Mr. Avijit Bhattacharjee, the learned counsel for the
respondent-State, has however pointed out that the question
as to the identity of the person(s) in charge of the day-to-day
affairs of the Company was a matter of evidence and it was
therefore imperative that the trial go on. G
H

- A We have considered the arguments advanced by the learned counsel for the parties. We find absolutely no distinction between the case of the Chairman and the appellant and the High Court has not brought out any distinction between the two. It has to be borne in mind that in prosecutions in such like cases
- B no roving enquiry is permissible and an obligation rests on the prosecution to give details so that the persons responsible so that the trial can proceed against them. We are therefore of the opinion that the appeal qua the present appellant ought to succeed.
- C We accordingly allow these appeals; set aside the order of the High Court insofar it goes against the appellant and direct that the proceedings against the appellant shall also stand quashed in all cases.

N.J.

Appeals allowed.