

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S).1497/2010

SHYAM SUNDER BHARTIA

APPELLANT(S)

VERSUS

THE STATE OF PUNJAB & ORS.

RESPONDENT(S)

O R D E R

1. We have heard the learned counsels for the parties.

2. The refusal of the High Court to quash the proceeding against the appellant to whom process was issued in Complaint Case No.280A/19.7.05 has led to the institution of the present appeal. The offence alleged is one under Section 3 of the Essential Commodities Act, 1955 (for short, the 'E.C. Act') for violation of the provisions of Fertilizer (Control) Order, 1985 on account of supply of sub-standard fertilizers.

3. In the complaint petition the accused No.6 is the Managing Director of M/s. Jubilant Organosys Ltd., the company which allegedly supplied the substandard fertilizers and thereby violated the provisions of the Fertilizer (Control) Order punishable under the provisions of the E.C. Act.

4. Neither in the list of accused nor in the body of the complaint petition there is reference to the appellant-accused as the Managing Director or that the appellant-accused was the Managing Director of M/s. Jubilant Organosys Ltd. at any relevant point of time.

5. Furthermore, it appears that under Clause 24 of the Fertilizer (Control) Order, the accused No.5 - one Dr. J.C. Chawla was nominated by the Company as the responsible officer and he would be liable to face the prosecution under Section 10 of the E.C. Act.

6. Under the aforesaid provision i.e. Section 10 of the E.C. Act, undoubtedly, any Director or Managing Director who is in charge of of the company or is responsible for the conduct of the business of the Company would also be liable along with the responsible officer provided the complaint *prima facie* discloses some material against such Director or Managing Director. In the present case, there is no mention of any material against the accused-appellant; in fact there is not even any reference to the accused-appellant being the Managing Director of M/s. Jubilant Organosys Ltd. at any point of time.

7. Over and above what has been recorded as above it has been submitted at the Bar that the prosecution against respondents 1 to 5 have been concluded in the meantime and the said persons have been acquitted of the charges framed against them. It is further stated that the said order of acquittal is under challenge before the next higher forum.

8. Be that as it may in view of what has been mentioned above we are of the opinion that the prosecution against the accused-appellant on the very face of it is not maintainable and is liable to be quashed. We accordingly quash the said proceedings against the accused-appellant and allow the appeal by setting aside the order of the High Court.

....., J.  
(RANJAN GOGOI)

....., J.  
(NAVIN SINHA)

....., J.  
(K.M. JOSEPH)

NEW DELHI  
SEPTEMBER 26, 2018

ITEM NO.103

COURT NO.2

SECTION II-B

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 1497/2010

SHYAM SUNDER BHARTIA

Appellant(s)

VERSUS

THE STATE OF PUNJAB &amp; ORS.

Respondent(s)

Date : 26-09-2018 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI  
HON'BLE MR. JUSTICE NAVIN SINHA  
HON'BLE MR. JUSTICE K.M. JOSEPH

For Appellant(s) Mr. Sidharth Luthra, Sr. Adv.  
Ms. Ruby Singh Ahuja, Adv.  
Mr. Nakul Gandhi, Adv.  
Ms. Swikriti Singhania, Adv.  
Mrs. Manik Karanjawala, AOR

For Respondent(s) Ms. Jaspreet Gogia, AOR

Mr. Kuldip Singh, AOR (NP)

UPON hearing the counsel the Court made the following  
O R D E R

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(NEETU KHAJURIA)  
COURT MASTER

(ASHA SONI)  
ASSISTANT REGISTRAR

(Signed order is placed on the file.)