

Order below Exh.1 in RCC No. 371/2001

Perused the case record, complaint, evidence of the complainant at Exh.62 and documents filed on record. Heard learned Counsels for both the sides.


2. It is the contention of the complainant that, it is a Board represented by Shri Bharat B. Nimbarte, who was working as Regional Officer of the complainant Board in the year 2001 and in-charge of the Kalyan region where the industry of the accused is situated. He was delegated with the powers under Section 24 of the Air (Prevention & Control of Pollution) Act, 1986 by the Board to file complaint under Section 19 of the Environment (Protection) Act, 1986(hereinafter called as 'Act'). According to the complainant the Government of India framed the rules under the Act known as Recycled Plastic Manufacture and Usage Rules, 1999 (hereinafter called as 'Rules'). The basic object of the Rules is to ensure that the manufacture of the plastic bags made from virgin plastic or recycled shall not be less than 20 microns. However, the accused No.1 is manufacturing plastic bags having thickness below 20 microns. The accused Nos. 2 & 3 are the proprietor and manager of the accused No.1 and in that capacity they are also responsible for non compliance of Rules. The complainant gave public notices in daily news papers Times Of India and Loksatta on 21/7/2000 & 4/09/2000 respectively for information of common man as well as occupiers and manufacturers of plastic bags less than 20 microns to stop the manufacturing of plastic bags less than 20 microns.

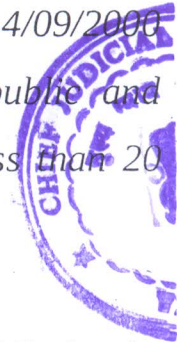
  
\_\_\_\_\_

Thereafter, on 18/10/2000 & 11/11/2000 the officer of the complainant visited the accused industry and found that the accused was manufacturing plastic bags of less than 20 microns. Hence, the complainant filed the complaint against the accused persons for the offence punishable under Section 15(1) of the Act read with rules 3 & 8 of the Rules.

3. After appearance of the accused the evidence before charge was recorded. The complainant has examined only one witness Bharat B. Nimbarte (P.W.1) at Exh.62 and filed pursis at Exh. 65 about closing evidence. Besides, oral evidence the complainant placed reliance on copy of resolution by M.P.C.B. Board at Exh.63 and news p[aper 'Times of India' dated 4/09/2000 at Exh.64 containing public notice about intimating public and manufacturers to stop the production of plastic bags less than 20 microns.

4. It is disclosed in the evidence of Bharat (P.W.1) that he was Regional Officer of the complainant in the year 2001 and areas of Kalyan, Dombivali, Bhiwandi, Ambarnath, Wada, Murbad, Shahapur were within his jurisdiction. The factory of the accused was located at Shahpur. On 11/02/2000 he has received report from his area officer Shri Holkar about visit to the accused's factory and it was found that production of plastic bags having thickness less than 20 microns was going on.

  
\_\_\_\_\_



5. However, the learned Counsel for the accused vehemently argued that apart from mere words of Bharat(P.W.1) there is nothing on record to prove said facts. Bharat (P.W.1) nowhere deposed that he had visited the factory of the accused. Similarly, he has not filed any documentary evidence i.e. visit report referred in complaint to show that in fact the officer of the complainant Shri Holkar had visited the factory of the accused on 11/02/2000. Even, Shri Holkar is not examined as witness to prove said fact. At the same time any sample of plastic bag likely to be seized from the factory of the accused is not produced, to show that the thickness of the plastic bags manufactured in the factory of the accused is less than 20 microns. So, there is no cogent and convincing oral as well as documentary evidence to show that visit was made to the factory of the accused and the accused were found manufacturing the plastic bags having thickness of less than 20 microns. Thus there is lack of evidence to made out prima facie case against the accused persons. In fact there is no ground exists to connect the accused with the alleged offence punishable under Section 15(1) of the Act read with rules 3 & 8 of Rules. Hence, the accused are liable to be discharged. I therefore pass the following order.

**ORDER**

1. The accused No.1 M/s Omega Packaging, accused No.2 Rajesh Shah and the accused No.3 Rohit Harania are hereby discharged of the offence punishable under Section 15(1) of The Environment (Protection) Act, 1986 read with rules 3 & 8 of the

*W.S.*

---

Recycled Plastics Manufacture and Usage Rules, 1999.

2. There bail bonds stands cancelled.

Thane.

Date :-29/07/2013

~~29/07/13~~

(K.N.Gautam)

Chief Judicial Magistrate, Thane.



खरीप्रत

~~29/07/13~~

सहाय्यक अधिक्षक  
मुख्य न्यायदंडाधिकारी  
न्यायालय, ठाणे.