



SURANA & SURANA NATIONAL TRIAL ADVOCACY
MOOT COURT COMPETITION – 2010

State of TN vs. Karthi & Amar

In the Court of Metropolitan Magistrate, Saidapet

C.C. No. 435 of 2009

1. Ziegler is a huge chain of super markets having branches all over India with its main branch in T Nagar, Chennai. In the metros they had branches in main shopping areas. Ziegler sold everything from cosmetics, electronics, fashion accessories, garments and household items. The premier items like perfumes, liquor and electronics were imported from many countries. They were reputed for genuine products and had a fairly good business throughout the year.
2. During festival, marriage season and on important occasions there was heavy crowd as they offered special discounts. All imported goods arrived in containers from Madras Harbor periodically. It is then segregated and re-packed and electronic price tags with bar-coding are fixed for easy billing and audit. The fixing of the tags was done manually at the main branch and transported to different branches as and when required.
3. This work was assigned to Karthi, supervisor in the main branch. During the season it was difficult for the employees to handle work pressure and on many occasions tempers were frayed. Ziegler paid their employees fairly well but as usual the employees always wanted more and felt that special allowances given at such times were not enough. The attrition rate among employees was high and resulting additional work pressure came on to existing employees.
4. Besides the supervisory work for 2 – 3 days in a week, Karthi doubled up as a sales manager interacting with customers and assisting sales personnel in the electronics and cosmetics section. He had two assistants Balan and Saroja. Karthi is a science graduate. Balan and Saroja were high school drop outs. But they had an average ability to read, write and speak Tamil and English.
5. Karthi was considered a good employee by Ziegler management. Mr. Vohra joined as the new manager in charge of TNagar branch. He was an ex-serviceman and imposed and expected strict discipline among staff. Though he was considered a good person by most of the employees, at times he was open and vocal in his observations, which caused resentment among many. He held the supervisors responsible for the mistakes of the staff under them.
6. Karthi's college mates regularly visited Ziegler. When Karthi was on supervisory work they enquired about his whereabouts from staff and also Mr. Vohra at times. They came to buy few things and used to have long chat with Karthi and other nearby sales staff, mostly girls. Mr. Vohra did not like this and warned Karthi many a times. One day Mr. Vohra was out on some work. On his return he saw Karthi chatting with some friends along with the sales girls and they were laughing loud. Mr. Vohra was furious and he shouted at Karthi in the open hall. He also warned his friends that if it happened again he would have to take some stern steps.
7. After this incident Karthi was very quiet and did not mingle well with the rest of the staff. To his dismay he found that he did not get the expected special increment, which was promised to him earlier. Around the same time preparations for Diwali sales began. An all staff meeting was arranged regarding additional work to be done. Mr. Vohra had brought in a representative from Valtext to explain to the supervisors how to check with product code list and fix the new Barcode pricing list to respective products. Barcode technology & infrared reading guns were explained to billing clerks.
8. At Ziegler new security measures were adopted. Close circuit cameras were installed in the business areas. New consignments started arriving. Karthi was to supervise fixing of barcodes with the help of Balan and Saroja for electronic and cosmetic items. It was a laborious job that needed lot of concentration. If the price sticker is switched, there could be considerable loss / gain depending on the sale of the product. As there will be large, diverse crowd during Diwali, it will be near impossible to contact customers after the product is sold.

9. The printing of the barcode stickers was done by Mr. Prasad, Accounts Manager and handed over to supervisors. There were separate cartons for the local consumption and for transporting to other branches. Karthi was working overtime and was very tired. As Diwali was just a month away, work was very heavy and they were working very late. At the back of his mind he was also perturbed about the incident and his failure to get special increment. When asked about it, he was told, "we'll consider it after Diwali". He was seething and wanted to teach them a lesson. He took leave for two days and joined office on 24 Sep 2009.
10. On 25 Sep 2009, Karthi asked for the entire batch of stickers, to finish the job at one go. When Mr. Prasad was about to print, he received a call from Mr. Vohra to meet him immediately. Karthi sat on Mr. Prasad's seat, selected the items on the list, and gave the print command. Mr. Prasad returned and saw Karthi taking the printed stickers from the printer tray. Though he was surprised, he did not say anything as he did not notice anything unusual. After a few hours he found that the cost price list he had printed earlier missing. Remembering that Karthi had come to his room, he asked him. Karthi hastily returned the sheet apologising that he had mistakenly taken the sheet along with price stickers.
11. On 26 Sep 2009 he again went on leave on lame excuse of being unwell. He even contemplated quitting during the peak season. On his return next day, Mr. Vohra scolded him in front of everybody and also informed that he can forget his special increment. Karthi did not report for duty from 28 September 2009. Diwali was just two weeks away. His colleagues informed Mr. Vohra that he was seen near the tea shop with friends.
12. Mr. Amar was Karthi's classmate right from preliminary school to college. Amar was quite affluent and was the one who often visited Karthi at Ziegler. He looked after his father's grocery shop. Amar went to Ziegler but did not find Karthi. He was informed that Karthi stopped coming to work. Amar met Karthi at the usual tea shop. Karthi explained to him the incidents that led him to quit.
13. Later Karthi and Amar went along with his friends for a drink. After a few rounds, Karthi started abusing Mr. Vohra and said that he will pay dearly for treating him shabbily. When Amar questioned him further, he said he might have issued wrong pricing code stickers to be fixed in electronic products and luxury cosmetic items. With the Diwali crowd nobody would have the time to check.
14. After a few days on a Sunday (4 Oct 2009), just two weeks before Diwali (Saturday, 17 Oct 2009), Amar went to Ziegler. He regularly used to buy cosmetic and other items from Ziegler. He was aware of the pricing of the products. He checked out for items and found that perfumes and some electronic mp3 players were underpriced. He told people around that he was getting married and would like to pick up presents for his friends, as festival discount offered is good. He picked up some items and paid for it in cash. He purchased goods worth about Rs. 49925/- mostly perfumes and mp3 players. At the billing counter, the sales girl just beamed the gun at the products and received the cash. Since Amar was well known, nobody suspected anything.
15. Next day Karthi met Amar in the tea shop. Karthi teased Amar being too smelly albeit good. Amar took it jocularly and offered Karthi a spray can. Amar had removed the price stickers from all the items he purchased. He also informed that he is getting engaged shortly and had bought some gifts for his close friends and cousins. Karthi was hesitant but Amar insisted and put it inside Karthi's bike's side box.
16. After Diwali, there was much less crowd and the staff was in a relaxed mood. On 20 Oct 2009, one of the customers took two Chanel5 perfume bottles and gave it for billing. The billing clerk mechanically beamed the reading gun on the barcode and extended the bill for payment. On receipt of the bill, he noticed that one was priced high (Rs. 10995/-) and the other very low (Rs. 3995/-). He asked the billing clerk whether it was a spurious stuff. It was brought to the notice of Mr. Vohra.
17. Mr. Vohra first thought it must be some mistake. He immediately checked the price list and found that Rs. 10995/- was the correct price. He offered to pick up a new bottle for the customer, but could not find it on the shelf. He was mildly surprised and told the customer that he will inform him when he gets the product or get it sent to his residence.
18. Later he asked Mr. Kannan, another supervisor to stay back for the night. On checking out the sales chart and figures he saw the anomaly in pricing mainly of few premium cosmetics and electronic items. Next day he engaged four people and checked for correctness of the price stickers for the listed items on the shelves. He found a few products of the description on the shelf. The rest had been sold.

19. He informed the management, who engaged auditors to take out the entire list of items sold and compared it with the price list. It was found that Bill No. 666, Sunday, 4 Oct 2009, billed at 6.00 p.m. that had all the listed items with lowest price. The items were premium perfumes and mp3 players of reputed brands. The bill amount was Rs.49925/- paid by cash. The items purchased were 5 bottles of Chanel5 perfume, 5 Sony mp3 players, 5 Davidoff Eu de cologne bottles.
20. The auditing team headed by Mr. Sriram, immediately ordered for the recorded video of the camera facing the sales counter and billing counter. On replay they found that Amar had picked up the items and paid the bill.
21. On 23 October 2010 Mr. Vohra filed a criminal complaint with T Nagar Police Station against Mr. Karthi and Mr. Amar. The Inspector in charge of T Nagar Police Station, Mr. Ganpathi, recorded the FIR at 11.45 a.m. on 23 October 2009.
22. On completion of the investigation, Mr. Ganapathy, Inspector, T Nagar Police station, arrested Mr. Karthi and Amar on 24 October 2009 and took them into custody. The case was thereafter committed to the Court of the Metropolitan Magistrate Court, Egmore, and the Magistrate framed charges against the accused Karthi (A1) in respect of offences under Sections 420, 408, 109 and 120B read with section 34 of IPC and Sections 65 and 66 of Information Technology Act, 2000 as amended by IT (Amendment) Act 2008 and Mr. Amar (A2) in respect of offences under sections 420, 109 and 120B read with section 34 of IPC. The case thereafter was posted for trial.

Witness

1. Karthi (DW1) – (recorded under application from the accused)
2. Amar (DW2) – (recorded under application from the accused)
3. Balan (DW3)
4. Mr. Vohra (PW1)
5. Mr. Prasad (PW2)
6. Mr. Sriram, Auditor (PW3)

Exhibits

1. Bill No. 666 dated 4 October 2009 (Exhibit 1)
2. Price list showing the actual price of confiscated items (Exhibit 2)
3. Barcode Tags showing price of products (Exhibit 3)
4. Two cassettes (cctv recording of 4 October 2009) (MO)
5. Confiscated perfume bottles, mp3 players, Eu de cologne (5 bottles each) (MO)

Documents

1. FIR (Annexure 1)
2. Panchnama / Mahazar (Annexure 2)
3. Charge Sheet (Annexure 3)
4. Statement of witnesses (Annexure 4)

ANNEXURE 1

FIRST INFORMATION REPORT

(Under Section 154 Cr.P.C.)

1. District: Chennai PS: D3, T Nagar Year: 2009 FIR No: 435
Date: 23 October 2009

2. Act: I.P.C. Sections 420, 408, 109 and 120B read with section 34 IPC and Sections 65 & 66 of the IT Act, 2000, as amended by IT (Amendment) Act 2008

3. Occurrence of Offence. Day: 4 October 2009 (Sunday) Date from: 25.09.2009 Date to: 04.10.2009

Time from: 5.00 p.m. Time to: 6.00 p.m.

Information recorded at PS. Date 23.09.09 Time: 12.00 pm Entry No: 1246
Information recorded by: Inspector Ganapathy

4. Type of Information: Written / Oral: Written

5. Place of Occurrence. Direction/Distance from PS: At Ziegel Super Store – about 1 Km South, from Police Station.

Beat Number:

Address:

In case outside this PS, then the name of PS: District

6. Complainant/Informant, Name: Mr. Inder Vohra Father/~~husband~~'s name: Late Mr. Murli Vohra
Date of Birth: 20.04.1967 Nationality Indian Passport No: Date of Issue:

Place of Issue:

Occupation: Manager Address: 17th Cross Street, Saidapet, Chennai 45

7. Basis on which FIR is lodged: Information given in person, by Mr. Inder Vohra

8. Details of Known/Unknown/Suspected accused with full particulars:
Mr. Karthi (A1) 25 years old; and Amar (A2) 25 years old.

9. Reasons for delay in reporting by the complainant/informant: Crime noticed on 20 October 2010 only.

10. Particulars of Injuries sustained: NA

11. Particulars of Post Mortem Report: NA

12. Post Mortem Report done by: NA

13. Inquest report/Unnatural death Case No. if anyNA

ANNEXURE 2

PANCHNAMA / MAHAZAR

23.10.2009

On 23 Oct 2009 at 1.00, p.m, the investigating officer, visited the spot of the occurrence of the crime in Crime Number 435 of T Nagar Police Station. After observing the place, the computer and the CTV camera in the business and billing area, he prepared a sketch.

The following were taken into possession and sealed in front of witnesses.

1. Recorded tape of the security camera near cash counter
2. Recorded tape near the cosmetic/electronic counters
3. Copy of Bill No.666 dated 4 October 2009

Mr. Bala and Ram are sales and billing clerks at Ziegle. They accepted to act as witnesses and have attested the panchnama.

Sd/
SI Ganapathy
Investigating Officer

Witnesses:

Signed

Mr. Bala, age 24 years, Residing at: No. 23, Sami Street, Thousand Lights, Chennai

Signed

Mr. Ram, age 31 years, Residing at: No.20, Sami Street, Thousand Lights, Chennai

23.10.2009

On 24 Oct 2009 at 11.30 a.m. the investigating officer, visited the residence of Mr. Amar, one of the accused, at 11, Lingam Street, Royapettah, and took into possession the following and sealed in front of witnesses.

1. 5 nos. mp3 players (Sony)
2. 1 no. used and 4 unused Chanel5 perfume bottle
3. 4 nos. Davidoff eu de cologne

Sd/
SI Ganapathy
Investigating Officer

Witnesses:

Signed

Mr. Kali, age 24 years, Residing at: No. 10, Lingam Street, Royapettah, Chennai

Signed

Mr. Siva, age 30 years, Residing at: No.10, Lingam street, Royapettah, Chennai

23.10.2009

On 24 Oct 2009 at 100, p.m, the investigating officer, visited the residence of Mr. Karthi, the accused at 27, Perumal street, Royapettah, and took into possession the following and sealed in front of witnesses.

- 1 no. used Davidoff eu de cologne

Sd/
SI Ganapathy
Investigating Officer

Witnesses:

Signed

Mr. Shanmugam, age 22 years, Residing at: No. 28, Perumal Street, Royapettah, Chennai

Signed

Mr. Ganesh, age 30 years, Residing at: No.28, Perumal Street, Royapettah, Chennai

ANNEXURE 3

Charge Sheet: (u/s 173 Cr.P.C.)

In the Court of the Metropolitan Magistrate Court, Saidapet

Final Report in Cr No 435 /2009

Complainant

State Of Tamil Nadu
Vs
Mr. Karthi & Mr. Amar

Accused

1. Mr. Karthi, S/o of Mr. Sivaraman, aged 25 years, residing at No: 27 Perumal Street, Royapettah, Chennai 14
2. Mr. Amar S/o, Mr. Siddharth, aged 25 years, residing at No 11, Lingam Street, Royapettah, Chennai 14

Mr. Karthi (A1) U/s 420, 408, 109 and 120B read with section 34 of IPC and Sections 65 and 66 of Information Technology Act, 2000 as amended by IT (Amendment) Act 2008 and Mr. Amar (A2) in respect of offences under sections 420, 109 and 120B read with section 34 read with section 34 of IPC

Summary of Facts:

Mr.Karthi(DW1) , a science graduate was an employee of Ziegle, a supermarket giant dealing with an array of consumer goods with its headquarters in Chennai which used the bar-code pricing system for its goods. He was primarily a supervisor but had to look after sales manager post in cosmetics and electronic departments due to high attrition rate amongst employees. He showed great resentment towards his new manager Mr.Vohra, an ex-serviceman primarily because Mr.Vohra(PW1) objected to Karthi's friends visiting the store during the work hours and even blasted Karthi one day with regards to this. After this Karthi was further perturbed because his increment was denied due to these issues and extra work was piling up for Diwali, wherein the barcode pricing stickers had to be fixed upon all products for sale. A representative was bought to explain this as if was done incorrectly there could be great loss or gain of profits.

Mr. Prasad, Accounts Manager, handled printing of the barcode stickers and distributed to supervisors who had to oversee fixing with help of assistants. On September 25 Karthi asked for the entire batch of sticker to finish the job and took the printout on his own in Mr.Prasad's absence. On 26.9.2009 Karthi skipped work, joined briefly on 27.9.2009 and quit job from 28.9.2009.

Amar(DW2) was one of Karthi's close friends who was also affluent. While they were having a drink Karthi abused Mr.Vohra and hinted to Amar switching of the pricing stickers on some of the electronic and luxury perfume goods. After this Amar visited the store on a Sunday when Diwali crowd was at it peak and picked up the precise under priced luxury items to the tune of Rs. 49,925/- under the pretext of his marriage. He presented a bottle to Karthi later.

After Diwali the switching of price stickers was discovered by a customer who happened to buy two Channel5 perfumes that were dual priced. Mr.Kannan(PW2) after with the help of the auditor Mr.Sriram(PW3) traced the bulk of sales to bill no.666 and from cctv evidence to Amar. Thus Mr. Vohra (PW1) filed a criminal complaint against DW1 and DW2 on 23.10.2009 in T-Nagar police station.

ANNEXURE 4

STATEMENT OF WITNESSES

Persons examined:

1. Mr.Vohra
2. Mr.Kannan
3. Mr.Sriram(Auditor)
4. Mr.Prasad
5. Mahazar witness
Bala & Ram – Employees of Ziegle
Kali & Siva - Neighbors of Amar
Shanmugam & Ganesh– Neighbors of Karthi
6. Investigating Officer

1. Mr.Vohra

I am the newly appointed manager of Ziegle and an ex-serviceman. I am very strict with employees as we deal with different types of high profile customers. Karthi's cavalier behavior along with his friends does not suit our working style. I reprimanded him in-front of everyone one day when I found him having merry time with friends and other staff during working hours. I had advised to management to put on hold his special increment till Diwali. He deliberately skipped work without reason when work is at peak. I had warned his friends too. I recognised Amar as Karthi's friend, who frequents Zeigle, on the cctv footage.

2. Mr.Kannan

I have been working as a supervisor in Ziegle for the last 4 years and knew Karthi from the beginning.. He was in-charge of the electronics and luxury perfumes section and before diwali he was assigned the task of supervising the placing of bar code stickers upon the items. Mr.Vohra informed me about the sudden irregularities with regards to the price of Channel5 perfume after Diwali. Upon investigation I discovered that all items under Karthi's supervision were wrongly priced.

3. Mr.Sriram

I handle the auditing and accounts for Ziegle and have been working there for 5 years. I was one day notified about certain irregularities in the pricing of the electronic and luxury perfume items by Mr.Vohra. I was asked to trace all purchases of items in respect of electronic and premium cosmetic items. I thoroughly checked the entire accounts and traced a bulk purchase of the said items to bill no.666 made on the 4th of October 2009.

4. Mr.Prasad

I am an employee of Ziegle and am incharge of the printing of barcode stickers . I handover the stickers to the respective supervisors who arrange to stick them on the products. On 25.9.2009 Karthi wanted the printout of all the barcodes to finish the job at one go. I got them ready in the digital format. Before I could print them out I got a call and had to leave. When I returned, Karthi had already printed them and later found the price list for different products also missing . When I asked Karthi, he returned the list apologizing that he had accidentally taken it along with the stickers. Later I was informed about the switch.

5. Mahazar Witness

- Bala & Ram - On 23.10.2009 the police inspector requested us to check the list of things he prepared that were taken from Ziegle. We checked and they were matching. Thereafter he sealed the packets with the contents.
- Kali & Siva – On 24 October at 11.30 a.m., the police inspector requested us to check the list of things he prepared that were recovered from the house of Mr. Amar. We checked and they were matching. Thereafter he sealed the packets with the contents..
- Shanmugam & Ganesh– On 24 October at 1.00 p.m., the police inspector requested us to check the list of things he prepared that were recovered from the house of Mr. Karthi. We checked and they were matching. Thereafter he sealed the packets with the contents.

6. Investigating Officer

I, Ganapathy, am the Inspector at T.Nagar Police Station and the investigating officer in this case. On 24th October after ascertaining certain facts from people investigated, have taken A1 & A2 into custody and charged Mr.Karthi u/s 420, 408,120B read with section 34 of the IPC and sections 65 & 66 of the IT Act, 2000 as amended by the IT (Amendment) Act 2008 and Mr.Amar under section 420, 408 and 120B read with section 34 of the IPC.

EXHIBIT-1

Ziegle

Ziegle Group of Supermarkets Pvt Ltd.
No.15 Dr.Ambassador Road, T-Nagar, Chennai-17
TIN NO. 5677489393

Cash Bill

Bill No.666 Date: 4/10/2009 Time:17:58:09

Description	Amount	Quantity	Rate
Sony Mp3	2995	5	14975.00
Davidoff - Eu de cologne	2995	5	14975.00
Chanel5 Perfume	3995	5	19975.00

Amount Total	15	Rs.49925.00
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Vat@ 12.5%
Total tax -Rs.5548.00
Amount Received- Rs.50,000
Amount Returned- Rs.75

Thank U & Visit Again
No Cash Refund

EXHIBIT- 2

Ziegle

Ziegle Group of Supermarkets Pvt Ltd.
No.15 Dr.Ambassador Road, T-Nagar, Chennai-17
TIN NO. 5677489393

Price List

1. Chanell5 perfume : 10995/-
2. Sony mp3 player : 5995/-
3. Davidoff eu de cologne : 4995/-

All prices inclusive of VAT @12.5%

EXHIBIT- 3



MODEL: MCHG876543IT
COMPANY: SONY
M.R.P : Rs. 5995/-
(Inclusive of all Taxes)
COLOUR : BLACK
QTY: 1 PC



ZIEGLE



MODEL: NRTU752484CP
COMPANY: DAVIDOFF
M.R.P: RS.4995/-
(Inclusive of all Taxes)
PRODUCT : EU DE COLOGNE
QTY: 1 PC



ZIEGLE



MODEL: NGRM345217TY
COMPANY: CHANNEL 5
M.R.P: RS.10995/-
(Inclusive of all Taxes)
PRODUCT: PERFUME
QTY: 1 PC



ZIEGLE