

CRM-M No. 11724 of 2013

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M No. 11724 of 2013

Date of decision : November 04, 2016

M/S National Agro Centre and another

..... Petitioners

v.

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. RK Girdhar, Advocate
for the petitioners.

Ms. Amarjit Kaur Khurana, Addl. AG Punjab

Ajay Tewari, J (Oral)

This petition has been filed for quashing of Complaint No.234 dated 23.1.2013, filed under Section 29 read with Section 3(k) (i), 17, 18, 29 and 33 of the Insecticides Act, 1968 and Rules 10 & 27(5) of the Insecticides Rules, 1971, as well as the order dated 23.1.2013 passed by the JMIC, Amritsar vide which the petitioners have been summoned to face the trial.

Brief facts are that on 30.5.2009, the Insecticide Inspector

had drawn a loose sample of Prtilachlor 50% EC from a 5 liters tin pack bearing batch No. SPC 8005, manufacturing date June 2008 and expiry date May 2010, manufactured by M/S Swastik Pesticide Ltd. Muzzafarnagar, and on analysis, the same was declared as misbranded as per report dated 3.6.2009.

Counsel for the petitioners has argued that admittedly the petitioners are dealers and purchased the insecticide in question from the manufacturer in sealed containers and, thus, they could not be held responsible. The petitioners did not and could not have ascertained whether the insecticide in any way was being manufactured in contravention of any provision of the Insecticides Act, 1968. He has relied upon the decision of this Court in M/S Garg Brother's and Company v. State of Punjab, 2013(4) RCR (Criminal) 826, wherein while relying upon the decision of the Supreme Court in M/S Kisan Beej Bhandar, Abohar v. Chief Agricultural Officers, Ferozepur (SC), 1990 (Sup) SCC 111, it was held as follows :-

“6. Admittedly, the petitioner is not the manufacturer of the insecticide but is selling the same. Hence, the petitioner cannot be held responsible if the sample was not found to be upto the standard by the analyst. The petitioner was merely involved in sale of the insecticide. The complaint was also filed against the manufacture. From the complaint, it cannot be said that the insecticide had not been stored properly by the petitioner. The samples were drawn by the Inspector from the original packing. In appeal vide

Annexure P-3 licence of the petitioner was restored in view of Section 30(3) of the Act.

7. Accordingly, the petition is allowed. Criminal complaint (Annexure P-2) under Section 3(k)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968 read with Rule 27(5) of the Rules, 1971 and all the consequent proceedings arising therefrom, qua the petitioner, are quashed.”

Learned Addl. AG Punjab is not in a position to cite any contrary judgment. Consequently, this petition is allowed and Complaint No.234 dated 23.1.2013, filed under Section 29 read with Section 3(k)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968 and Rules 10 & 27(5) of the Insecticides Rules, 1971, as well as the order dated 23.1.2013 passed by the JMIC, Amritsar summoning the petitioners, and other proceedings arising therefrom are set aside.

November 04, 2016
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No