

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

**CRM-M No. 3976 of 2015
Date of decision : 31.8.2016**

M/s Hariyali Kisaan Bazar, Kotakpura and another**Petitioners**

v.

State of Punjab and another**Respondents**

CORAM : HON'BLE MS. JUSTICE JITENDRA CHAUHAN

Present : Mr. Binderjit Singh, Advocate, for the petitioners

Mr. Luvinder Sofat, AAG, Punjab

Jitendra Chauhan, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for quashing of complaint dated 21.1.2013 (Annexure P-13) titled as **State through Harinder Singh, Insecticide Inspector v. M/s Haryali Kissan Bazar and others**, pending in the Court at Faridkot, filed by respondent No.2 under Sections 3(k)(i), 17, 18, 29 and 33 of Insecticides Act, 1968 read with Rule 27 (5) of the Insecticides Rules against the petitioners along with summoning order dated 21.1.2013 (Annexure P-14) whereby the petitioners were summoned to face the trial.

Learned counsel for the petitioner has contended that the petitioners are not the manufacturers of the insecticide of which sample was taken. They are the licensed retailer and purchased the insecticides from its manufacturer. Nowhere in the complaint it is mentioned that the petitioners have not properly stored the insecticides. No discrepancy was found in the

stock register of the petitioners. It is further contended that the sealed packet of insecticides were not found tempered by the Insecticide Inspector. In support of his arguments, he placed reliance on **“Ramesh Kumar and others v. State of Punjab, 2010(2) RCR (Criminal) 273 P & H”**.

Learned State counsel has opposed the contentions of learned counsel for the petitioners.

I have heard learned counsel for the parties and perused the case file.

It is correct that the samples were tested twice but no report has been produced on the record. The Insecticide Inspector, Kot Kapura, in the reply filed, has admitted that the petitioners are the licenced dealer and purchased the insecticide from the manufacturers. The insecticide was properly stored in sealed packets.

The ratio of the above referred case is squarely applicable to the facts of the instant case. It was held therein that sample of the insecticide was taken in original packing and it is well settled that if the sample is taken from the original packing of the manufacturer and stored for sale in the same condition, the dealer/distributor is entitled to get protection under Section 30(3) of the Act, if the substance/sample drawn was in its original condition.

In view of the above, this Court is of the considered opinion that the complaint filed against the petitioners is a misuse of the process of the court. Accordingly, the petition is allowed and the complaint dated 21.1.2013 (Annexure P-13) titled as **State through Harinder Singh, Insecticide Inspector v. M/s Haryali Kissan Bazar and others**, pending in the Court at Faridkot, filed by respondent No.2 under Sections 3(k)(i), 17, 18, 29 and 33 of

Insecticides Act, 1968 read with Rule 27(5) of the Insecticides Rules against the petitioners along with all consequential proceedings arising therefrom, is hereby quashed.

(JITENDRA CHAUHAN)
JUDGE

31.8.2016
Ashwani

Speaking/Reasoned
Reportable

Yes/No
Yes/No