

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

**CRM-M-991 of 2016**

**Date of Decision: April 11, 2016**

Jarnail Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**

Present: Mr. Manish Verma, Advocate  
for the petitioners.

**FATEH DEEP SINGH, J.**

This petition under Section 482 Cr.P.C. preferred by the petitioner Jarnail Singh, who happens to be the proprietor of petitioner No.2 M/s J.R. Traders, is a licensed dealer, dealing in the sale and purchase of insecticides/pesticides etc. Through this invocation of the inherent powers of this Court they have sought quashment of the complaint preferred under Sections 3(k) (i) 17,18,29,33 of Insecticides Act, 1968 (in short, 'the Act') read with Rule 27(5) of Insecticides Rules, 1971 preferred by respondent-State against them (Annexure P/1) as well as summoning order dated 10.06.2015 (Annexure P/2.).

The stand of the petitioners is that being licensed dealer they had purchased from the manufacturer M/s Krishi Rasayan Exports Pvt. Ltd., Sambha, (Jammu) insecticide brand Clodinafop-Propargyl 15% WP

under batch No.JKE/JK30, date of manufacturing, September 2013 in a duly sealed and packed container for the purpose of sale. It is claimed that the Insecticides Inspector on 20.12.2011 inspected the premises of the petitioners and has taken due samples of this insecticide through document Annexure P/3. It is the stand of the State in the complaint that one of the sample was sent to the State Insecticides Laboratory, Bathinda and the same was declared as misbranded. Though, they were served with show cause notice by the Chief Agriculture Officer, Shaheed Bhagat Singh Nagar to which they have replied and thus finding not acceptable they have been summoned as an accused. The quashment is on the grounds that they have received the sample in a sealed condition were entitled to benefit of Section 30(3) of the Act.

Heard, learned counsel for the petitioners. No doubt, Section 30(3) of the Act has been encrypted with the view and object to protect the Agent seller of these insecticides so manufactured by the manufacturing companies and by virtue of which it is laid down that distributors shall not be liable for contravention of any provisions of the Act but the same is subject to the rider if he proves to the satisfaction of the Court that he acquired the insecticide from the duly licensed manufacturer and nor by reasonable diligence could have ascertained that the insecticide in question contravened any provision of the Act and as long as insecticide remained in his possession was properly stored and kept in the same state as per requirements. The contention of the petitioner's counsel reflects that the petitioner at no point of time either showed their inclination while making reply to the show cause notice that they were desirous of getting

representative sample reanalysed from the prescribed Laboratory in terms of Section 24(3) of the Act, and, therefore, did not make any intention to controvert the report of the State Insecticides Laboratory and, thus, the same is conclusive evidence of the fact stated therein. More so, the very provisions of Section 30(3) of the Act shows that the accused though is entitled to take defences of these provisions but all these defences are certainly to the mind of this Court being factual one which requires adducing of evidence and thus, needs to be proved like any other fact by leading evidence at the trial. The petitioner, thus, cannot take advantage of these provisions at this juncture. More so, under the provisions of Section 482 Cr.P.C. the Court is not supposed to assess the evidence and the petitioners were well within their right to move lower Court for their discharge.

Learned counsel for the petitioners could not convince this Court as to the very necessity of this Court to show indulgence. Thus, there being no merit, the present petition stands dismissed in limine.

**(FATEH DEEP SINGH)**  
**JUDGE**

**April 11, 2016**  
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