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

CRA-S-936-SBA of 2005

Date of decision: September 25, 2017

State of Punjab

.....Appellant

Versus

Madan Gopal

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. Dhruv Dayal, Sr. DAG Punjab.

Mr. Gaurav Chopra, Advocate and
Ms. Kashika Kaur, Advocate for the respondent.

A.B. CHAUDHARI, J (Oral)

Being aggrieved by the judgment dated 23.09.2004 passed by Sub Divisional Judicial Magistrate, Jagraon in Criminal Complaint case No.290/1 of 19.07.1997, by which the learned trial Court acquitted the respondent-accused, the present appeal was filed by the State of Punjab.

Learned State counsel vehemently argued that the trial Court committed an error in acquitting the accused persons on the assumption that the sample was not got tested by the Central Laboratory. He, further submitted that the prosecution had proved its case to the hilt and the witnesses PW1 and PW4 were examined who proved the prosecution case. He, therefore, prayed for reversal of the judgment and for conviction of the respondent-accused.

Per contra, learned counsel for the respondent-accused opposed the appeal and supported the impugned judgment and reasons

recorded therein. He prayed for dismissal of the appeal.

Heard learned counsel for the rival parties. I have gone through the evidence of Insecticide Inspector with the assistance of Reader of this Court, since the deposition is in Punjabi. Upon perusal of the entire evidence of the Insecticide Inspector as well as averments in the complaint, it clearly appears to be non-compliance of Sub Section 2 of Section 24 of the Insecticides Act, 1968 (for short 'Insecticides Act'), which reads thus:-

“24. Report to Insecticide Analyst

xx xx xx xx

2. The Insecticide Inspector on receipt thereof shall deliver one copy of the report to the person from whom the sample was taken and shall retain the other copy for use in any prosecution in respect of the sample.”

It appears from the record that the information about the report of Insecticide analyst was given to accused No.1 and admittedly, such information was not given to accused Nos.2 to 4.

It is worthy to note that, though, large number of incidents have been reported about the adulteration in pesticides, insecticides etc., the Insecticide inspectors still do not have proper training and proper skill for implementing Insecticides Act. As a result, there is hardly any successful prosecution. Another angle in this case is that the Insecticide Inspector claimed to have sent the report to the person from whom the sample was taken. However, since other persons, namely accused Nos.2 to 4 were also prosecuted, their right to have Insecticide analyst report cannot be denied. The word 'person' occurring in Section 24 of Insecticides Act must be interpreted to mean number of persons who are

proposed to be prosecuted in the criminal case as accused persons. It was, therefore, necessary for Insecticide Inspector to serve all the accused persons with copy report of Insecticide analyst, with further instructions that the accused had right to apply for retesting from Central Insecticides Laboratory, Faridabad within 28 days.

Thus, the appeal has no merits and stands dismissed. Director, Agriculture of Punjab is expected to take necessary steps for upgradation of knowledge and skill of the Insecticide Inspectors who are appointed.

(A.B. CHAUDHARI)
JUDGE

September 25, 2017

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No