

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

CRM-M-14347-2016(O&M)

Date of decision:26.07.2017

J.P.Garg

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Rakesh Verma, Advocate
for the petitioner.

Mr. Randeep Singh Khaira, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

The petition under Section 482 of the Code of Criminal Procedure, 1973 has been filed by the petitioner seeking quashing of impugned complaint No.39556/13 dated 05.07.2013 under Sections 3(k)(i), 17, 18, 29 and 33 of Insecticide Act, 1968 read with Rule 27(5) of Insecticide Rules, 1971 (Annexure P-1) and summoning order dated 11.05.2016 (Annexure P-2).

Learned counsel for the petitioner has drawn reference to the interim orders passed by the trial Court and has submitted that the complaint was filed on 05.07.2013 and thereafter, on various dates, it was fixed for recording the statement of the complainant. On 28.01.2014, statement of 3 CWs was recorded and thereafter again case was fixed for evidence. Again on 5 subsequent dates, no evidence was present and the case was listed for 11.05.2015. On 11.05.2015, the following order was passed by the Judicial Magistrate 1st Class (Division), Bathinda:-

“ Present: None.

*File put up before me today being Duty
Magistrate as the Ld. Presiding Officer (Sh. Vikrant*

Kumar, PCS, Chief Judicial Magistrate, Bathinda) is on leave. None has come present despite of repeated calls. In the interest of justice, notice to complainant as well as accused be issued for 10.07.2015.

11.05.2015

Sd/-
JMJC(D), Bathinda”

Learned counsel for the petitioner submits that in fact the trial Court, while taking up the file on account of leave of the Presiding officer, in a casual manner, has issued notice to the complainant as well as the petitioner-accused and therefore, it amounts to passing of summoning order which is not in accordance with law.

This factual position is not disputed by the learned State Counsel.

After hearing counsel for the parties, this petition is allowed. The summoning order dated 11.05.2015 passed by the Trial Court is set aside and the trial Court is directed to pass a fresh order in accordance with law.

However, it will be open for the petitioner to file a fresh petition seeking quashing of complaint on merits in case the order passed by the trial Court is detrimental to his interest.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

26.07.2017
Hemlata

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No