

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

**CRM No.M-18077 of 2015 (O&M)
Date of Decision: December 15, 2017**

M/s Shree Ramcides Chemicals Pvt. Ltd and others

...Petitioners

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Vivek Goel, Advocate for
Mr.Deepak Gupta, Advocate
for the petitioners.

Ms.Simranjeet Kaur, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. against respondent State of Punjab for quashing the complaint No.29 dated 25.08.2014 titled as 'State of Punjab through Gurmail Singh, Insecticide Inspector Budhlada vs. M/s Boha Kissan Sewa Kendre and others' and summoning order dated 25.08.2014 passed by learned JMIC, Budhlada.

Notice of motion was issued. Learned State counsel appeared and contested the petition.

Learned counsel for the petitioner argued only on point that first sample sent in this case has been received back on 03.08.2011 and the

limitation period of three years will start from 03.08.2011 and the complaint has been filed on 25.08.2014 i.e. beyond the limitation as provided under Section 468 Cr.P.C.

Section 468 Cr.P.C. provides as under:-

468. Bar to taking cognizance after lapse of the period of limitation.

(1) Except as otherwise provided elsewhere in this Code, no court, shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be-

(a) Six months, if the offence is punishable with fine only;

(b) One year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) Three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

¹*[(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.]*

As the offence is stated to be not punishable more than three years of sentence, therefore, the limitation for filing the complaint is within three years.

Learned State counsel, in reply, has stated that the sanction to file the complaint is necessary in view of Section 31 of the Insecticides Act 1918, which provides under:-

31. Cognizance and trial of offences.-

(1) No prosecution for an offence under this Act shall be instituted except by, or with the written consent of, the State Government or a person authorised in this behalf by the State Government.

(2) No court inferior to that of a [Metropolitan Magistrate or a Judicial Magistrate of the first class] shall try any offence under this Act."

He argued that the permission for grant of sanction was applied on 05.09.2013, which was received on 01.01.2014. He next argued that as per Section 470 Cr.P.C. Sub-section 3, the period for obtaining permission is not to be counted for the purpose of counting the limitation period under Section 468 Cr.P.C.

Section 470(3) Cr.P.C. provides as under:-

470. Exclusion of time in certain cases.-

(3) Where notice of prosecution for an offence has been given, or where, under any law for the time being in force, the previous consent or sanction of the Government or any other authority is required for the institution of any prosecution for an offence, than, in computing the period of limitation, the period of such notice or, as the case may be, the time required for obtaining such consent or sanction shall be excluded.

Explanation.-In computing the time required for obtaining the consent or sanction of the Government or any other authority, the date on which the application was made for obtaining the consent or sanction and the date of receipt of the order of the Government or other authority shall both be excluded.

I have heard learned counsel for the petitioners as well as learned State counsel and have gone through the record.

From the record, I find that, even as per the case of the petitioners, the limitation was going to expire on 02.08.2014 and the request for grant of sanction was sent on 05.09.2013, which was received on 01.01.2014 i.e. within the limitation period. As per Section 470(3) Cr.P.C., this period is to be excluded. If this period is excluded, then, in no way, it can be held that the complaint is barred by limitation under Section 468 Cr.P.C. No other point has been argued.

In view of the above discussion, I find that the complaint in question has been filed within the limitation period and the argument of learned counsel for the petitioners has no merit.

Therefore, finding no merit in the present petition, the same is dismissed.

December 15, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No