

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

CRM-M-15858 of 2014.

Decided on:- November 20, 2018.

M/s Super Seeds Private Limited.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Ajay Jain, Advocate
for the petitioner.

Mr. Manish Bansal, D.A.G., Haryana.

HARI PAL VERMA, J.

The petitioner has filed present petition under Section 482 Cr.P.C. for quashing the order dated 19.07.2013 passed by learned Chief Judicial Magistrate, Sirsa (Annexure P-1), whereby on a complaint filed by complainant under Section 19 of the Seeds Act, 1966 and Rules made thereunder, the complainant was directed to produce entire evidence as well as the judgment dated 11.04.2014 passed by learned Additional Sessions Judge, Sirsa (Annexure P-2), whereby revision against the order dated 19.07.2013 passed by learned Magistrate, was dismissed.

Briefly stated, a complaint under Section 19 of the Seeds Act, 1966 (for short, the Act) and Rules made thereunder for violation of Section 6(a) of the Act and Seed Control Order, 1983 was filed by the State of Haryana through Sub Divisional Agricultural Officer, Sirsa in the Court of learned Chief Judicial Magistrate, Sirsa against the petitioner and other accused.

As per the complaint, on 26.04.2008, Ruhi Ram, the then Sub Divisional Agricultural Officer inspected the shop of Brij Mohan situated at Shop No.19, Sirsa Club, Sirsa and had drawn three samples of cotton seeds. The samples were drawn from the original packing from the lot and each sample was put into a polythene bag and tied with thread and cloth bag. The samples were duly sealed with the seal of Senior Inspector. One parcel of the sample was handed over to the dealer from where the sample was drawn. The second parcel of the sample was retained in the office of Sub Divisional Agricultural Officer. The third parcel of the sample was sent to the Seed Analyst State Seed Testing Laboratory, Karnal vide letter dated 29.04.2008. The analysis report of the seed sample was received in the office of Sub Divisional Agricultural Officer, Sirsa on 16.06.2008, wherein the quality of the seed was found sub-standard and its germination test showed 50% against the prescribed limit of 65% under Section 6(a) of the Act.

Accordingly, a complaint under Section 19 of the Act and the Rules made thereunder was filed in the Court of Chief Judicial Magistrate, Sirsa on 17.12.2008 for violation of Section 6(a) of the Act and the Seed Control Order, 1983. Vide impugned order dated 19.07.2013 (Annexure P-1) passed by learned Chief Judicial Magistrate, Sirsa, a *prima facie* case under Section 19 of the Act was made out against the petitioner-accused. Therefore, notice under Section 19 of the Act was served against the petitioner, to which he did not plead guilty and claimed trial.

The aforesaid order dated 19.07.2013 passed by learned Magistrate was challenged by the petitioner by way of revision petition before

the Court of Session. However, the revision petition was dismissed by learned Additional Sessions Judge, Sirsa vide impugned judgment dated 11.04.2014 (Annexure P-2).

It is in these circumstances, the petitioner has filed present petition.

Learned counsel for the petitioner has argued that the complaint filed by the respondent-complainant was time barred. Section 468 Cr.P.C. provides that no Court shall take cognizance of an offence after the expiry of period of limitation, which shall be six months if the offence is punishable with fine only and year, if the offence is punishable with imprisonment for a term not exceeding one year. Further, the limitation shall be three years if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

He has further contended that there is no dispute that the samples were taken on 26.04.2008 and one parcel of the sample was sent by the complainant to the Seed Analyst State Seed Testing Laboratory, Karnal vide letter dated 29.04.2008. The analysis report was made on 27.05.2008 and it was received on 16.06.2008, whereas the complaint was filed in the Court on 17.12.2008.

On the other hand, learned counsel for the respondent-State has argued that the period of limitation is required to be reckoned from 16.06.2008 i.e. the date when the analysis report along with show cause notice was sent to the petitioner-firm and not from 27.05.2008, when the report was prepared.

I have heard learned counsel for the parties.

For the purpose of period of limitation, Section 468 Cr.P.C. is reproduced 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.*
- (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.”*

Similarly, Section 19 of the Act, which deals with the penalty reads as under:

“19. Penalty. If any person-

- (a) contravenes any provision of this Act or any rule made thereunder; or*

- (b) prevents a Seed Inspector from taking sample under this Act; or*
- (c) prevents a Seed Inspector from exercising any other power conferred on him by or under this Act; he shall, on conviction, be punishable-*
 - (i) for the first offence with fine which may extend to five hundred rupees, and*
 - (ii) in the event of such person having been previously convicted of an offence under this section, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.”*

The precise argument raised by learned counsel for the petitioner is that the complaint filed by the respondent-State was barred by limitation as the same was filed beyond the period of six months from the date of receipt of the analysis report. In the present case, the analysis report was made on 27.05.2008, whereas the complaint was filed on 17.12.2008. Even if this Court takes into consideration the stand of the respondent-State that period of limitation is required to be reckoned from 16.06.2008 i.e. the date when the analysis report dated 27.05.2008 along with show cause notice was sent to the petitioner-firm and the signatures of the Licensing Officer on the said notice bears the date as 10.06.2008, still this Court finds that the complaint was filed beyond limitation as it was filed on 17.12.2008 i.e. beyond a period of six months.

The limitation is required to be reckoned from 25.07.2008 i.e. the date on which the analysis report was made and it was incumbent upon the

prosecution to file a complaint within six months i.e. upto 26.11.2008. However, the complaint was filed by the respondent-State on 17.12.2008. Thus, this Court finds that the complaint filed by the respondent-State against the petitioner was barred by limitation and the same was not filed within a period of six months. The complaint should have been filed within six months from the date of its receipt of report i.e. 27.05.2008.

Accordingly, the present petition is allowed and the impugned order dated 19.07.2013 (Annexure P-1) passed by learned Chief Judicial Magistrate, Sirsa as well as the impugned judgment dated 11.04.2014 (Annexure P-2) passed by learned Additional Sessions Judge, Sirsa are set aside. The petitioner-accused is acquitted of the charge levelled against him.

November 20, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No