

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

1. CRM-M-27699-2012 (O&M)

M/s Swastik Pesticides Pvt. Ltd. and others ... Petitioners

Vs.

State of Punjab ... Respondent

2. CRM-M-39361-2014 (O&M)

M/s Thandi Agro Inputs Pvt. Ltd. and others ... Petitioners

Vs.

State of Punjab ... Respondent

Date of Decision: 22.05.2018

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. R.K. Girdhar, Advocate and
Mr. Mansur Ali, Advocate
for the petitioner (s).

Ms. Rajni Gupta, Sr. D.A.G. Punjab.

P.B. BAJANTHRI J. (Oral)

By this common judgment, both the aforementioned petitions shall be decided together being arising out of a complaint.

2. Through these petitions, petitioners have sought for quashing of complaint No.69/A dated 4.8.2011 filed under Section 3 (k) (i), 17, 18, 29 and 33 of the Insecticides Act, 1968 and Rules 16, 17, 18 and 19 of the Insecticides Rules, 1971 read with Rules 27 (5) of the Insecticides Rules, 1971 as well as summoning order dated 8.11.2011 passed by the Judicial Magistrate Ist Class, Kharar.

3. Learned counsel for the petitioner (s) submitted that based on certain allegations, competent authority obtained sample of Insecticides on 11.11.2006 and it sent for the State Insecticides Lab, Bathinda and report was obtained on 16.11.2006 wherein sample was declared as misbranded.

Further samples were sent to Central Insecticides Lab and obtained

opinion/report to the extent that it was recorded as misbranded on 12.02.2007. Pursuant to the report from the State as well as Central Insecticides Lab, competent authority filed a complaint against the petitioners under the Insecticides Act and Rules. Acted on the complaint, summoning order was passed on 8.11.2011. Hence, the present petition.

4. Learned counsel for the petitioner (s) submitted that the very complaint before the competent court under the Insecticides Act and Rules is not maintainable on the ground of delay of 4 ½ years pursuant to the receipt of the Central Insecticides Lab report on 12.02.2007. Section 29 of the Insecticides Act provides for maximum punishment of two years. In view of these facts and circumstances, on the ground of delay itself, complaint and criminal proceedings are liable to be set aside as complaint is to be filed within a period of three years.

5. Per contra, learned counsel for the respondent-State while contesting the contention of the petitioner submitted that necessary application for condonation of delay alongwith the complaint was moved and delay was condoned. Therefore, question of interference in respect of delay issue in the present petitions insofar as presentation of complaint by the competent authority do not arise.

6. Heard the learned counsel for the parties.

7. Crux of the matter in the present petitions is whether complaint presented by the respondent-department under the Insecticides Act and Rules are within the time limit stipulated or not?

Undisputedly, complaint could have been filed within a period of three years from the date of opinion/report received from the State Insecticides Lab or Central Insecticides Lab. In the present case report of

the State Insecticides Lab and Central Insecticides Lab were obtained on 16.11.2006 and 12.2.2007. Thereafter, complaint was presented on 4.8.2011 i.e. much after three years i.e. after 4 ½ years. Under the Insecticides Act and Rules, there is no provision for making any application for condonation of delay in presenting the complaint and so also condoning the delay by the competent court/authority/forum. In the absence of statutory provision in respect of seeking condonation of delay in presenting the complaint, Court below has exceeded its jurisdiction in entertaining the application for condonation of delay and by condoning the delay in presenting the complaint and further proceedings with the complaint.

8. In view of the above facts and circumstances, complaint No.69/A dated 4.8.2011 is belated to the extent of 4 ½ years. On this count itself, complaint No.69/A dated 4.8.2011 filed under Section 3 (k) (i), 17, 18, 29 and 33 of the Insecticides Act, 1968 and Rules 16, 17, 18 and 19 of the Insecticides Rules, 1971 read with Rules 27 (5) of the Insecticides Rules, 1971 as well as summoning order dated 8.11.2011 passed by the Judicial Magistrate Ist Class, Kharar are set aside.

9. Petition stands allowed accordingly.

22.05.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**