

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-4744 of 2018
DATE OF DECISION:-16.11.2018

M/S INSECTICIDES INDIA LTD.
AND OTHERS

...PETITIONERS...

V.

STATE OF PUNJAB

...RESPONDENT...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Arun Chandra, Advocate,
for the petitioners.

Mr. A.S. Gill, DAG, Punjab.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C, the petitioners have prayed for quashing complaint No.COMA/129/2015 dated 22.07.2015, under Sections 3K, 17, 18, 29 and 33 of Insecticides Act, 1968, titled as “*State of Punjab vs. M/s Sitara Lal Raghvir Parkash and others*” (Annexure P-1) and summoning order dated 08.10.2015 (Annexure P-2) pending before ld. Chief Judicial Magistrate, Barnala.

Briefly, on 16.07.2011, complainant-Gurcharan Singh, who is Insecticide Inspector, Tapa, District Barnala along with Bhajan Singh, ADO, inspected the firm M/s Sitara Lal Raghvir Parkash, Sadar Bazar Tapa, District Barnala and drew sample weighing 750 gms of insecticides named as Cartap Hydrochloride 4% G out of 5kg packing

of polythene bag and divided the same into three parts and sealed the same in 3 different parcels of 250 gms each with a seal of complainant bearing impression Agri 3-II-BNL. Out of three samples, one sample was sent to Senior Analysts, Insecticide Testing Laboratory, Amritsar, which, on analysis, was found misbranded as it contains only 3.30% active ingredient against prescribed norm of 4% printed on the label of container on 25.07.2011. The petitioners were not satisfied with the said report of Senior Analyst, Insecticide Testing Laboratory, Amritsar. Therefore, they moved an application before the complainant for sending the second sample for analysis. Consequently, second sample was sent to the Central Insecticides Laboratory, Faridabad, which on analysis, again found misbranded vide report dated 01.02.2012. Thereafter, the complainant filed the impugned complaint on 22.07.2015 i.e. after more than 3 years beyond the period of limitation before Id. Chief Judicial Magistrate, Barnala, who after recording preliminary evidence, summoned the petitioners vide impugned order dated 08.10.2015 (P-2).

Learned counsel for the petitioners contends that the impugned complaint being hopelessly time barred, in view of Sub clause 2(c) of Section 468 Cr.P.C., could not have been entertained by the Chief Judicial Magistrate. He was to outrightly dismiss the complaint (Annexure P-1), but has illegally and wrongly summoned the petitioners vide summoning order dated 08.10.2015 (P-2). In support of his contention, learned counsel for the petitioners has placed

reliance upon the judgment of Hon'ble Supreme Court, titled as "**State of Rajasthan vs. Sanjay Kumar**", 1998 (3) RCR (Criminal) 846 and of this Court, titled as "**M/s Kheti Sewa Centre, Ludhiana vs. State of Punjab**", 2003 (1) RCR (Criminal) 310, "**Sunil Chaudhary and another vs. State of Punjab**", 2002 (4) RCR (Criminal) 715, "**Balram Singh Yadav and ors. v. State of Punjab**" passed in CRM-M-1439-2015 decided on 20.05.2016 and "**M/s Hyderabad Chemicals Ltd. and others vs. State of Punjab**" passed in CRM-M-10680-2012 (O&M), decided on 03.03.2014.

On the other hand, learned State counsel submits that in view of Section 470 Cr.P.C., the period consumed in obtaining sanction has to be excluded while calculating the period of limitation in filing the impugned complaint. In case, the same is excluded, the impugned complaint was filed well within limitation.

Learned counsel for the petitioners strongly refuting the above submission, submits that even if the said period for obtaining sanction is excluded, in that eventuality also, the impugned complaint is still time barred and is not maintainable.

Having given thoughtful consideration to the rival submissions made by learned counsel for the parties, this Court finds merit in the instant petition for the reasons to follow:-

1. Undisputedly, the premises of M/s Sitara Lal Raghvir Parkash was raided by the complainant on 16.07.2011. Report qua misbranding of first sample was received on 25.07.2011 and second

report from Faridabad authority was received on 01.02.2012. The impugned complaint was filed on 22.07.2015 i.e. after a period of 3 years, 5 months and 10 days. The period of limitation for filing the complaint under sub clause 2(c) of Section 468 Cr.P.C is three years. Therefore, after expiry of three years, the impugned complaint could not have been filed. Sanction letter (P-3) shows that the complainant applied for sanction on 19.08.2014 and the same was granted on 10.11.2014 i.e. within three months. In case, the period of three months is excluded, the impugned complaint filed on 22.07.2015 can still easily be declared being hopelessly time barred.

In the rulings referred above, it is held that limitation to prosecute under the Act starts from the date of receipt of report of public analysts and not from the date of collection of sample and if, the complaint is filed beyond the period of limitation of three years, the same is not maintainable.

Therefore, considering the dictum of the aforesaid authorities, instant petition is allowed and the impugned complaint dated 22.07.2015 (P-1) being hopelessly time barred and summoning order dated 08.10.2015 (P-2) along with all the consequential proceedings arising therefrom are quashed.

16.11.2018

sonika

(RAMENDRA JAIN)
JUDGE

whether speaking/reasoned:
whether reportable:

Yes/No
Yes/No