

CRM-M-17705 of 2018 (O&M)

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

CRM-M-17705 of 2018 (O&M)
Date of Decision: 05.02.2019

Sher Singh and another

...Petitioners

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Rakesh Verma, Advocate, for the petitioners.
Mr. Amandeep S. Gill, DAG, Punjab.

RAMENDRA JAIN, J. (ORAL)

CRM-855 of 2019

Sanction order dated 12.02.2013 is taken on record as
Annexure P-3, subject to all just exceptions.

Disposed of.

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Through instant petition under Section 482 Cr.P.C. prayer has been made for quashing Criminal Complaint No.70 dated 28.05.2015 (Annexure P-1) titled as "State v. M/s Parkash & Company and others" under Sections 3(k)(i), 17, 18 and 33 punishable under Section 29(1) of the Insecticides Act, 1968 and Rule 27(5) of the Insecticides rules, 1971, pending in the Court of learned Sub Divisional Judicial Magistrate, Gidderbaha, District Sri Muktsar Sahib, summoning order dated 09.10.2015 (Annexure P-2) and all consequential proceedings arising therefrom.

In nutshell, on 02.08.2011 Insecticide Inspector, Gidderbaha

inspected the shop of M/s Parkash & Company, Gandhi Chowk,

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Gidderbaha, and drew samples of Triaccontanal 0.05% G Bath No.SRJ-100503, from a 5 kgs container, having manufacturing date May, 2010 and its expiry after two years from the date of manufacturing. Out of total three samples collected, one sample was sent to the State Insecticide Testing Laboratory, Bathinda on 08.08.2011 for analysis, which, on analysis, was found mis-branded vide analysis report received in the office of Chief Agriculture Officer, Sri Muktsar Sahib on 05.09.2011. Consequently, show-cause notice was issued to petitioner No.2 being dealer of the aforesaid insecticide, which was duly replied by petitioner No.2. Since Chief Agriculture Officer was not satisfied with the reply of the petitioners, therefore, impugned complaint (Annexure P-1) was filed on 28.05.2015 by the Insecticide Inspector against the petitioners, in which after recording preliminary evidence, they were summoned vide order dated 09.10.2015 (Annexure P-2).

Learned counsel for the petitioners relying upon *State of Rajasthan v. Sanjay Kumar*, 1998(3) R.C.R.(Criminal) 846 (S.C.) inter alia contends that cause of action had arisen to the respondent-complainant on 05.09.2011 i.e. the date of receipt of first analysis report, which declared the sample as mis-branded. Limitation to file complaint under the aforesaid Sections is three years under Section 468 Cr.P.C. Since, instant complaint was filed by the respondent after expiry of period of limitation on 28.05.2015 i.e. after 03 years 08 months and 23 days, therefore, trial Court ought to have outrightly dismissed the same being time-barred.

On the other hand learned State counsel vehemently opposing the above submissions, pleaded the legality and validity of impugned complaint as well as the summoning order.

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Having given thoughtful consideration to the rival submissions of both the sides, this Court finds that the instant petition merits acceptance for the reasons to follow.

Undisputedly, in the instant case, sample was drawn on 02.08.2011 and analysis report qua mis-branding of first sample was received on 05.09.2011. Impugned complaint was filed on 28.05.2015 i.e. after a period of 03 years, 08 months and 23 days. The period of limitation for filing the complaint under Section 468 Cr.P.C. is three years. Plea of the State that delay in filing the complaint had occurred due to non-receipt of the re-analysis report, is mis-conceived inasmuch as complaint was required to be filed after receipt of the first analysis report without waiting for the second report. For the delay on the part of the respondent-complainant, petitioners cannot be made to suffer. I am fortified in my views by the judgment of the Hon'ble Supreme Court in *Sanjay Kumar* (supra) and this Court in *M/s Doaba Seed Store and another v. State of Punjab (CRM-M-8243 of 2017)* rendered on 16.08.2018.

In view of above, instant petition is allowed. Impugned complaint dated 28.05.2015 (Annexure P-1) and summoning order dated 09.10.2015 (Annexure P-2) along with all consequential proceedings arising therefrom, are quashed.

February 05, 2019
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No