

Rajesh Aggarwal and others

.....Petitioners

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Rakesh Verma, Advocate
for the petitioners

Mr. Amandeep S. Gill, Sr. DAG Punjab

Sudhir Mittal, J. (Oral)

The petitioners are the accused who have been summoned to stand trial vide Complaint Case No. 22 dated 10.05.2018 filed under Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968 (hereinafter referred to as 'the Act') read with Rule 27(5) of the Insecticides Rules, 1971 (hereinafter referred to as 'the Rules').

Learned counsel for the petitioners submits that a Notified Insecticide Inspector conducted the sampling on 09.07.2014 and sent the sample for report of the analyst. The report dated 08.08.2014 was received on 13.08.2014, however, the complaint was instituted on 10.05.2018. The maximum sentence which can be imposed under Section 29 of the Act is simple imprisonment for a period of 2 years and, thus, limitation for filing such a complaint was 3 years from the date the offence came to the knowledge of the authorities concerned. In this case, the offence came to the knowledge of the authorities concerned on 13.08.2014, on receipt of report of the analyst but the complaint was filed almost 4 years thereafter and, thus, the same is barred by limitation prescribed under Section 468 Cr.P.C.

Learned State counsel submits that under Section 473 Cr.P.C. delay can be condoned if the Court concerned is satisfied that there is sufficient explanation for delay. In the present case, a prayer for condonation of delay has been made in para 25 thereof but without taking note of the said prayer, learned trial Court proceeded to summon the accused. If the delay had been condoned, the petitioners would not have been in a position to claim that the complaint is time barred.

Section 468(3) Cr.P.C. provides for a limitation of 3 years for a Court for taking cognizance of an offence for which the maximum punishment is imprisonment for 2 years. The limitation is to be reckoned with effect from the date of offence came to the knowledge of the complainant. Further, it is not in dispute that maximum punishment prescribed for the offence alleged to have been committed by the petitioners is simple imprisonment for two years. The commission of alleged offence came to the knowledge of the authorities concerned on 13.08.2014 when report of the analyst was received. Thus, limitation started to run w.e.f. 14.08.2014 and 3 years elapsed on 13.08.2017. The complaint was admittedly filed on 10.05.2018 which is beyond the period of limitation prescribed. Hence, the complaint is patently barred by limitation.

In para 25 of the complaint, two contradictory statements have been made. Firstly it has been stated that the complaint is being filed within the period of limitation and thereafter a prayer has been made for condonation of delay. However, no reasons are forthcoming for explaining the delay. Further, there is nothing on record to indicate that the prayer for condonation of delay was pressed at the time of passing of the summoning order. Had the prayer for condonation of delay been pressed and the trial Court failed to take note of the same, the complainant would have challenged the summoning order. However, no such thing

has been done and, thus, it does not lie in the mouth of the complainant to argue at this stage that the trial Court was in error in not condoning the delay.

For the aforementioned reasons, the petition is allowed and Complaint Case No. 22 dated 10.05.2018 and all subsequent proceedings arisen therefrom are quashed.

December 09, 2019

reena

[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No