

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.229

CRM-M-5825-2017 (O&M)

Date of decision : 1.3.2019

M/s Sukhana Kheti Bari Centre and others

..... Petitioners

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

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

Mr. K.S. Sidhu, DAG, Punjab

SUDHIR MITTAL, J. (Oral)

The petitioners seek quashing of compliant No.9716 dated 19.9.2016 filed under Section 3(k) (i), 17, 18, 29 and 33 of Insecticides Act, 1968 (for short 'the Act') read with Rule 27(5) of the Insecticide Rules, 1971 tilted as 'State Vs. M/s Sukhana Kheti Bari Centre and others' (Annexure P1) as well as summoning order dated 19.9.2016 (Annexure P2) pending in the Court of Chief Judicial Magistrate, Ludhiana.

The aforementioned complaint has been filed against the manufacturer, stockist and their responsible persons for violation of the provisions of the Act. It is stated therein that insecticides stocked by the petitioner was inspected and sent for chemical analysis. It was found that the composition thereof was not in accordance with law and rules and thus, the accused persons were guilty of manufacture and storage of mis-branded insecticides.

Learned counsel for the petitioners submits that the petitioner is an authorized dealer of insecticides. He purchases the insecticides from its manufacturer in sealed containers and the samples sent for examination were also taken from sealed containers. Thus, the petitioners cannot be held to

have violated any provisions of the Act and the filing of the

aforementioned complaint and issuance of summoning order against him is abuse and misuse of the process of the criminal Court. Section 30(3) of the Act protects persons such as the petitioners. He also relies upon judgment dated 14.12.2018 passed by this Court in CRM-M-10044-2014 titled as 'M/s Haryana Krishi Sewa Kender and another Vs. State of Haryana.'

A perusal of the complaint shows that the complaint itself avers that samples were taken from the sealed containers.

Learned State counsel submits that this fact is admitted in the reply filed on behalf of the State.

Thus, in view of the Section 30(3) of the Act and judgment in M/s Haryana Krishi Sewa Kender (supra), the petition deserves to be allowed. It is so ordered and compliant No.9716 dated 19.9.2016 filed under Section 3(k) (i), 17, 18, 29 and 33 of Insecticides Act, 1968 read with Rule 27(5) of the Insecticide Rules, 1971 titled as 'State Vs. M/s Sukhana Khedi Bari Centre and others' (Annexure P1) as well as summoning order dated 19.9.2016 (Annexure P2) are quashed qua the petitioners.

(SUDHIR MITTAL)
JUDGE

1.3.2019

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No