

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-9956-2017

Date of decision: 19.03.2019

D Ashok Kumar and another

..... Petitioners

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. CM Munjal, Advocate for the petitioners.

Mr. Munish Sharma, AAG, Haryana.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing complaint No. COMA/3/2016 dated 27.01.2016 (Annexure P-3) titled as 'State of Haryana vs. Amit Bansal and others'; summoning order dated 27.01.2016 (Annexure P-4) and all other subsequent proceedings arising therefrom, qua the petitioners.

Briefly, on 26.02.2015, Quality Control-cum-Insecticide Inspector, Hisar, inspected the premises of M/s Suresh Trading Company, situated at New Grain Market, Adampur, district Hisar, a authorized dealer of petitioner No. 2-M/s Coromandel International Limited and drew sample of cypermethrin 25.0% EC bearing batch No. R-140 30301, having manufacturing dated 03.03.2014 and expiry dated 02.03.2016, which on analysis, was found mis-branded, vide report dated 12.10.2015.

Consequently, show-cause notice dated 14.10.2015 (Annexure P-1) was

issued to the petitioners by Deputy Director, Agriculture, Hisar, to explain

its position within 7 days. However, according to the petitioners they had submitted reply dated 21.10.2015 (Annexure P-2) to the above show-cause notice (Annexure P-1) through registered post, but respondent-State, says that it never received any such reply, which is the bone of contention in the instant petition.

Learned counsel *inter alia* contends that petitioners are having postal receipts in support of their contention that they had replied to the show-cause notice vide reply Annexure P-2. The impugned complaint (Annexure P-3) was filed by respondent-State, without compliance of the provisions of Section 24(3) of the Insecticides Act, 1968 (for short-'the Act'). Therefore, the same is liable to be quashed. In support of his contentions, learned counsel for the petitioner has relied upon a judgment of Hon'ble the Supreme court in **M/s Northern Minerals Ltd. and others Vs. Rajasthan Govt. and another, 2016(2) RCR (Criminal) 996.**

On the other hand, learned State counsel refuting the above submissions, pleaded the legality and validity of the impugned complaint and summoning order (Annexures P-3 and P-4, respectively). He contends that respondent-State, never received any such reply allegedly sent by the petitioners to them. Therefore, there is no violation of Section 24(3) or any other provision of the Act, for filing complaint. The factual position as to whether petitioners ever replied to show-cause notice (Annexure P-1) or that the respondent-State, despite notice did not comply with the provisions of Section 24(3) of the Act, can only be ascertained during trial and not at the threshold, without any evidence in this petition under Section 482 Cr.P.C.

Having given thoughtful consideration to the rival submissions,

this Court is in complete agreement with the submissions of learned State counsel that a complaint cannot be quashed outrightly on the contention of accused, unless the same is subjected to trial.

The bone of contention in the instant case is qua sending of reply (Annexure P-2) to show-cause notice (Annexure P-1). The question as to whether any reply was sent by the petitioners or was received by the respondent-State, can only be ascertained during trial.

Therefore, finding no merit in the instant petition, the same is dismissed.

March 19, 2019

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No