

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

CRM-M-34181-2019 (O&M)

Date of decision : 27.08.2019

N. Sukumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. K.S. Nalwa, Advocate and
Mr. Adhiraj Thind, Advocate and
Mr. Y.S. Tiwana, Advocate for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Learned counsel for the petitioner had fairly drawn attention of the Court to the detailed judgment dated 23.07.2019 passed by the Court in CRM-M-41886-2015 titled as Chemtura Chemicals India Private Limited and others Vs. State of Punjab and another, deciding similar petitions.

Learned counsel for the petitioner has submitted that he had filed an application for permission to place on record licence to sell, stock or exhibit for sale or distribution of insecticides in Form-VIII which has not been listed. He passed on a copy thereof at the time of hearing, which is taken on record.

It is apparent that as per the format of the licence, statement No.1 refers to list of responsible persons, which are as under:-

“Statement No.-I

List of Responsible Persons

<i>S.No.</i>	<i>Name</i>	<i>Designation</i>	<i>Responsible for</i>
<i>1</i>	<i>Sh. N. Sukumar s/o Raja Ram Reddy</i>	<i>Director</i>	<i>-----</i>
<i>2</i>	<i>Mr. Joginder Singh Gill s/o Sh. Jarnail Singh Gill</i>	<i>Area Sales Manager</i>	<i>Conduct of business.</i>
<i>3</i>	<i>Mr. P. Subba Rao s/o Sh. P.Bala Subbanna</i>	<i>Chemist</i>	<i>Quality Control (Jammu Unit)</i>
<i>4</i>	<i>Mr. G. Venkateshwara Rao s/o G. Subha Rao</i>	<i>Chemist</i>	<i>Quality Control (Hyderabad Unit)</i>
<i>5</i>	<i>Mr. Ganga Singh Dhami s/o Sh. Laxman Singh Dhami</i>	<i>Depot Incharge</i>	<i>Depot Incharge</i>

Name of the petitioner is at Sr. No.1 in the above information, therefore, petitioner cannot claim that he cannot be prosecuted.

At this stage, only complaint under various provisions of Insecticides Act has been filed and the summoning order has been issued.

This Court in the case of Chemtura Chemicals India Private Ltd. and others (Supra), has discussed in detail and found that not only the necessary pleadings have been made but there is no requirement of such pleadings in view of the tabulated information extracted above which is part of the licence granted. In the present case, necessary averments are in para 14 of the complaint, which is extracted as under:-

“14. That all the officials mentioned in the heading of complaint at sr. no.2 of this complaint i.e. 2a) N. Sukumar s/o Late Sh. N.S. Rajaram Reddy, Director of M/s Hyderabad Chemicals Limited being incharge who was looking after the business of the company at the time of failure of this sample had failed to check the manufacturing,

selling, stocking & distribution of this mis-branded insecticide. That co-accused 2b) Joginder Singh Gill S/o Jarnail Singh Gill, Area Sales Manager who was responsible person for conduct of business of M/s Hyderabad Chemicals Limited had also failed to check the supply & distribution of this misbranded insecticide. That co-accused 2c) Moparthi Rajesh S/o Sh. Anjaneyullu, Chemist & Responsible for Quality Control of M/s Hyderabad Chemicals Limited had failed to check the quality of this insecticide at the manufacturing unit. That accused 2d) G. Venketasvera Rao S/o Suba Rao, Chemist & Responsible Person for Quality Control of M/s Hyderabad Chemicals Limited had also failed to check the quality & supply of this mis-branded insecticide at the manufacturing unit of this company. That co-accused 2e) Ganga Singh S/o Luxaman Singh, Godown Incharge & Responsible Person at Ludhiana of M/s Hyderabad Chemicals Limited who was incharge and responsible of this company's godown and in whose presence this sample was taken, had stocked/sold and had distributed this mis-branded insecticide to various dealers in Punjab State. That it is just possible that he may not had stored this insecticide in the godown properly. That all these officials of this company who were incharge & responsible at the time of failure of this sample, have failed to check this mis-branded insecticide thus had been held liable as per Sections 33(1) & 33(2) of the Insecticides Act 1968 due to the violation of Sections 3k(1), 17, 18, 29 & 33 of the Insecticides Act, 1968 along with the offence committed by this company by manufacturing, selling stocking, offering for sale & distribution of this mis-branded insecticide.”

Next argument of the learned counsel is with reference to

Section 24(1) of the Insecticides Act. He contends that report of Central Insecticides Laboratory is required to be received by the Director within a period of 30 days of sending of sample.

In the considered view of this Court, this issue can be better appreciated by the trial Court keeping in view the scheme of the Act and the rules framed thereon.

In view of the above, the present petition is disposed of.

It shall be permissible to the petitioner to take all the defences as per law before the trial Court.

27.08.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No