IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

****

Date of decision : 06.08.2022

1. CRM-M-43740-2018

S.B.V. R. Prasad

... Petitioner

Versus

State of Punjab

... Respondent

2. CRM-M-23557-2019

Bhagwan Dass

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Rakesh Verma, Advocate &
Mr.Manish Verma, Advocate
for the petitioners.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

VIKAS BAHL, J.(ORAL)

This order will dispose of two criminal miscellaneous petitions filed under Section 482 Cr.P.C. praying for quashing of the impugned complaint no.257 dated 01.04.2015 filed under Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticide Act, 1968 punishable under Section 29 of the Insecticide Act, 1968 read with Insecticide Rules, 1971 titled as “State vs. M/s Modern Khetibari & Beej Store and others” pending in the Court of the Chief Judicial Magistrate and the summoning order dated 22.12.2016 and all the consequential proceedings arising therefrom qua the petitioners.

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The first petition, i.e. CRM-M-43470-2018 has been filed by S.B.V. R. Prasad who is stated to be the Director of the company namely M/s Makhteshim Agan India Pvt. Ltd. (now known as m/s ADAMA India Pvt. Ltd.). The second petition, i.e. CRM-M-23557-2019 has been filed by Bhagwan Dass, son of Jai Singh, who is the Manager-cum-Godown Incharge of the said companyMakhteshim Agan India Pvt.Ltd.

Learned counsel for the petitioners has submitted that the complaint in the present case has been filed under Section 3(k)(i), 17, 18, 29 and 33 of the Insecticide Act, 1968, punishable under Section 29 of the Insecticide Act, 1968 read with Insecticide Rules, 1971 on the allegations that the Insecticide Inspector had inspected the shop of M/s Modern Khetibari & Beej Store (accused no.1) and had inspected the stock register and put his initial on it and verified the stock of accused no.1 firm in respect of Clodinofop Propargyl 15% WP which was manufactured by Makhteshim Agan India Pvt. Ltd. (accused no.3) and according to the stock register, there were 8 bags of 160 gm packing and from the same, samples were taken and in the test analysis, it was found that the samples did not confirm to the IS specifications and the sample was thus, misbranded. Thereafter, show cause notice was served to accused no.1 to 4. The summoning order in the present complaint was then passed on 22.12.2016 in which the petitioners (in both the petitions), along with the other accused were summoned to face trial for the offences under Sections 3(K)(i), 17, 18, 29 and 33 of the Insecticide Act, 1968 punishable under Section 29(1)(9) of the said Act and Rules 1971.

Learned counsel for the petitioners in both the petitions have referred to the order dated 04.10.2018 passed in CRM-M-43740-2018 and

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order dated 24.05.2019 passed in CRM-M-23557-2019 vide which notice of motion was issued in the present two petitions and further proceedings before the trial Court qua the petitioners were stayed. It has been argued that a perusal of the complaint would show that there is a specific mention of the fact that Manoj D. Patel, son of Dahiya Bhai Patel, is the responsible officer for Quality Control of the company M/s Makhteshim Agan India Pvt. Ltd (accused no.3). It is submitted that the said fact has been mentioned in the memo of parties of the complaint and also in paragraphs 2, 11 and 12 of the complaint. It is further submitted that the said aspect has been specifically averred in paragraph 10 of the present petition also wherein it has been categorically stated that the said Manoj Kumar D. Patel had been appointed as Manager Quality Control of accused no.3 company. It is further submitted that as far as the petitioner S.B.V.R. Prasad is concerned, he has been sought to be prosecuted only on account of the fact that he is the Director of the said company and the petitioner Bhagwan Dass is sought to be prosecuted only on account of the fact that he is the Manager-cum-Godown Incharge. It is stated that in the entire complaint, it has not been averred that either of the two petitioners were incharge of the business **o**f the company in question or were responsible for the functioning of the company moreso, with respect to the quality of the products manufactured. Reference has been made to Section 33 of the Insecticides Act, 1968 to state that the averments as have been made in the complaint do not call for initiation of proceedings against both the petitioners. Reliance in this regard has been placed upon to the judgment of Hon'ble Supreme Court of India in ***"M/s Cheminova India Ltd. & Anr. vs. State of Punjab & Anr."*** reported as ***2021(3) RCR (Criminal) 750;*** and judgment of a coordinate

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Bench of this Court passed in ***" Kanwaljit Singh Joson vs. State of Punjab"*** reported as ***2018(2) R.C. R. (Criminal) 30*** and also the judgment of another coordinate Bench of this Court in ***"Yadwinder Singh vs. State of Punjab and Ors.",*** passed in CRM-M-20884-2018 on 05.12.2018. It is submitted that continuation of proceedings against the petitioners is an abuse of the process of the Court and thus, deserve to be quashed.

Learned State counsel, on the other hand, has submitted that the petitioner S.B. V. R. Prasad is the Director of accused no.3 company and Bhagwan Dass is the Manager-cum-Godown Incharge and thus, by virtue of the said two positions, they are also responsible for the conduct of the business of the company. It is further submitted that the petitioner S.B.V.R. Prasad, being the Director, is over all Incharge of the company and cannot escape the liability and has prayed that the present petitions be dismissed.

This Court has heard learned counsel for the parties and has perused the paper book.

In CRM-M-43470-2018 on 04.10.2018, a coordinate Bench of this Court was pleased to pass the following order:-

> *"Learned counsel for the petitioner submits that petitioner is director of company M/s Makhteshim Agan India Pvt. Ltd. (now known as M/s ADAMA India Pvt. Ltd.). Learned counsel has relied upon* ***State of NCT of Delhi Vs. Rajiv Khurana, 2010 (3) RCR (Crl.) 912*** *to submit that as per Section 33 of the Insecticides Act, 1968, it is mandatory requirement for averments to be made in the complaint with regard to the accused being incharge of or responsible to the company for the conduct of its business.*
>
> *Notice of motion for 25.01.2019.*
>
> *In the meantime, proceedings before the trial Court qua the petitioner shall remain stayed.*
>
> ***[ARVIND SINGH SANGWAN]***
> *04.10.2018* ***JUDGE"***

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To the similar effect, the order dated 24.05.2019 was passed in the case of Bhagwan Dass in CRM-M-23557-2019 and the proceedings against both the petitioners have been stayed since then.

Before dwelling into the facts of the present case, it would be necessary to refer to the relevant provisions and the relevant judgments on the subject. Section 33 of the Insecticides Act, 1968 is reproduced hereinbelow:-

> ***"33. Offences by companies***.— *(1) Whenever an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, or was responsible to the company for the conduct of the business of, the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:*
>
> *Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.*
>
> *(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any Director, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.*
>
> *Explanation.—For the purpose of this section,—*
>
> *(a) "company" means any body corporate and includes a firm or other association of individuals; and*
>
> *(b) "director", in relation to a firm, means a partner in the firm."*

A perusal of the said section would show that in the case of the company which has committed an offence under this Act, every person, who, at the time when the said offences were committed, was incharge of,

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or was responsible to the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and would be liable to be proceeded against. Sub Section 2 further provides that notwithstanding anything contained in sub section (1), in case it is proved that the offence had been committed by the company with the consent or connivance of, or is attributable to any neglect on the part of any Director, Manager, Secretary or other officer of the company then such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against.

The Hon'ble Supreme Court of India in the case of ***M/s Cheminova India Ltd's*** case (supra) has held as under:-

> *"Criminal Appeal No.750 of 2021 (Arising out of SLP (Crl.) No.4144 OF 2020)*
>
> *M/s. Cheminova India Limited & Anr. ...Appellant(s)*
>
> *vs.State of Punjab & Ors. ...Respondent(s)*
>
> *12. This Criminal Appeal is filed by the Petitioners / Accused nos. 3 and 4 in CRM-M-12082-2016 (O & M) before the High Court of Punjab & Haryana at Chandigarh, aggrieved by the Order dated 12.05.2020. By the aforesaid order, the Petitioners' application of quashing of Complaint No. 313 dated 19.08.2015, filed by the Respondent No.2 - The Quality Control Inspector, Bhikhiwind, District Tarn Taran, Punjab for offences under Sections 3(k)(i), 17, 18 and 33, punishable under Section 29 of the Insecticides Act, 1968 (for short, "the Act"), was dismissed. The petition was allowed by the High Court for other accused, who was working as Godown Incharge, and quashed the proceedings.*
>
> *xxx xxx xxx*
>
> *16.....Learned Counsel has submitted that by making vague and bald allegations, the appellants, who were the Company and the Managing Director, are also sought to be prosecuted.*
>
> *16(a). It is submitted that unless there is a clear and categorical averment in the complaint, indicating the role played by the appellants, there cannot be any vicarious liability on the 1st Appellant - Company and the 2nd Appellant-Managing Director*

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for commission of the alleged offence. In support of his arguments, learned Senior Counsel has placed reliance on the judgment of this Court in the case of Managing Director, Castrol India Limited v. State of Karnataka & Anr., 2018 (17) SCC 275, and also another judgment of this Court in the case of Shiv Kumar Jatia v. State of NCT of Delhi, 2019 (17) SCC 193.

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17. On the other hand, learned Counsel, appearing for the Respondents, has submitted that the High Court has considered all the grounds raised by the petitioners and rejected the petition to quash the proceedings. It is submitted that the 2nd Appellant, being the Managing Director of the 1st Appellant -Company, which is the manufacturer of the product in question, was rightly prosecuted by the 2nd Respondent - Quality Control Inspector, Bhikhiwind, District Tarn Taran, Punjab. Learned Counsel has submitted that there is no violation of provision under Section 24 (4) of the Act and Section 202 of the Code of Criminal Procedure and there are no grounds to interfere with the order of the High Court. It is submitted that the Appellant No.2 was the Managing Director of the Company at the relevant point of time, as such, he is overall responsible person for quality control of the products of the Company, as such, he is also liable for prosecution.

18. Having heard the learned Counsels on both sides, we have perused the impugned Order and other material placed on record.

19. Section 33 of the Act deals with 'offences by companies'. A reading of Section 33(1) of the Act, makes it clear that whenever an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, or was responsible to the company for the conduct of the business of, the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. In the case on hand, it is not in dispute that on behalf of the 1st Appellant -Company, 2nd Appellant - Managing Director has furnished an undertaking dated 22.01.2013, indicating that Shri Madhukar R. Gite, Manager of the Company, has been nominated in the resolution passed by the Company on 28.12.2012 to be in charge of and responsible to the said Company, to maintain the quality of the pesticides manufactured by the said Company and he was authorized to exercise all such powers and to take all such steps, as may be

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necessary or expedient to prevent the commission of any offence under the Act.....

.....In view of the specific provision in the Act dealing with the offences by companies, which fixes the responsibility and the responsible person of the Company for conduct of its business, by making bald and vague allegations, 2nd Appellant - Managing Director cannot be prosecuted on vague allegation that he being the Managing Director of the 1st Appellant - Company, is overall responsible person for the conduct of the business of the Company and of quality control, etc. In the instant case, the Company has passed a resolution, fixing responsibility of one of the Managers namely Mr. Madhukar R. Gite by way of a resolution and the same was furnished to the respondents by the 2nd Appellant in shape of an undertaking on 22.01.2013. When furnishing of such undertaking fixing the responsibility of the quality control of the products is not in dispute, there is no reason or justification for prosecuting the 2nd Appellant - Managing Director, on the vague and spacious plea that he was the Managing Director of the Company at the relevant time. A reading of Section 33 of the Act also makes it clear that only responsible person of the Company, as well as the Company alone shall be deemed to be guilty of the offence and shall be liable to be proceeded against. Though, the Managing Director is overall incharge of the affairs of the company, whether such officer is to be prosecuted or not, depends on the facts and circumstances of each case and the relevant provisions of law. Having regard to specific provision under Section 33 of the Act, and the undertaking filed in the present case, respondent cannot prosecute the 2nd Appellant herein. Thus, we find force in the contention of Mr. Sidharth Luthra, learned Senior Counsel, that allowing the prosecution against 2nd Appellant - Managing Director is nothing but, abuse of the process of law. At the same time, we do not find any ground at this stage to quash the proceedings against the 1st Appellant - Company.

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21. As all other nominated / responsible persons of the Company are already accused in the Complaint, we are of the view that there is no basis to proceed against the 2nd Appellant - Managing Director to prosecute him for the alleged offences.

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22. For the aforesaid reasons this Criminal Appeal is partly

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> *allowed, so far as the Appellant No.2 - Managing Director is concerned and the impugned Order of the High Court dated 12.05.2020, passed by the High Court of Punjab & Haryana at Chandigarh in CRM-M-12082-2016 (O & M), is set aside. Consequently, Complaint No. 313 dated 19.08.2015, filed by the 2nd Respondent - Quality Control Inspector, Bhikhiwind District Tarn Taran, Punjab, pending before the learned Judicial Magistrate First Class, Patti stands quashed qua the Appellant No.2 namely Mr. Pramod N. Karlekar / Accused No.4. Further, it is made clear that the observations and findings recorded in this order are made only for the purpose of disposal of this Appeal arising out of quash petition and it is open for the Trial Court to record its own findings, based on the evidence on record, and take such other steps, in accordance with law."*

A perusal of the above said judgment would show that in Criminal Appeal no.750 of 2021 which arose from the proceedings under Section 482 Cr.P.C., which was allowed by the High Court qua the Godown Incharge in the case therein and was dismissed qua accused no.3 and 4 and one of the accused, who had filed the said appeal, was the Managing Director of the company in question therein. It was observed that a reading of Section 33 of the Act makes it clear that only responsible person of the Company as well as the Company alone, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and although, the Managing Director is overall incharge of the affairs of the company but in the facts and circumstances of the said case as per which Shri Madhukar R. Gite, was specifically nominated to be the incharge and the responsible officer to maintain the quality of the pesticides manufactured by the said company and after taking into consideration the relevant provisions of law, it was observed that the proceedings against the second appellant, i.e. Managing Director therein, were nothing but an abuse of process of the Court and were thus, quashed qua second appellant therein, however, the

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proceedings against the company were not quashed. The ratio of law in the above said judgment would apply in the present case also and the same shall be detailed hereinafter.

A coordinate Bench of this court in ***Kanwaljit Singh Joson's*** case (supra) has held as under:-

> *"Petitioner has filed the present petition under section 482 of the Code of Criminal Procedure, 1973 (`Cr.P.C.' for short) for quashing of Complaint No. 15 dated 17.1.2013 under Sections 3(k) (i) 17, 18, 29 and 33 of the Insecticides Act, 1968 (`the Act' short) read with Insecticide Rules, 1971 (` Rules 1971' for short) titled as `State v. M/s Balaji Sales Corporation and Others', which is pending adjudication at Bathinda, (Annexure P1) and summoning order dated 17.1.2013 (Annexure P2) along with all consequential proceedings arising therefrom qua the petitioner.*
>
> *2. It is submitted on behalf of the petitioner that the petitioner is one of the Director of the Company, namely, M/s Pioneer Pesticides Pvt. Ltd., Samba (J&K) having its registered Office at Chandigarh (for short `M/s PPPL'). The respondent-complainant has filed the criminal complaint No. 15 dated 17.1.2015 under Sections 3(k)(i), 17, 18,29 & 33 of the Act read with Rule 27(5) of the Rules,1971. Petitioner-Kanwaljit Singh Josan is arrayed as accused No.4 in the complaint. After hearing the complainant, the trial Court has issued summoning order dated 17.1.2013 (Annexure P2) against the petitioner. Learned counsel for the petitioner has submitted that the petitioner has already put in appearance before the trial Court and was granted bail.*
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> *xxx xxx xxx*
>
> *4. Learned counsel for the petitioner has argued that the petitioner is a Director of the Company, namely,`M/s PPPL' and under the provisions of the Act, a specific procedure is provided to prosecute the Director of the Company. Learned counsel has referred to Section 33 of the Act which provides that whenever a Company is sought to be prosecuted for an offence under the Act, such person alone can be cited as an accused as was or were Incharge/responsible of the Company for the conduct of its business at the time of commission of offence. Learned counsel for the petitioner has further submitted that the complainant is required to specifically and categorically aver in the complaint*

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that the accused was Incharge or responsible of the Company for the conduct of its business....

.....It is further submitted that the present petitioner, merely on account of holding the post of Director could not be summoned to face the trial. Learned counsel for the petitioner in support of his contention referred to paragraphs 16 and 18 of the complaint to submit that the only allegation against the petitioner is that he is the Director and responsible person of `M/s PPPL' and,therefore, it is not sufficient compliance of the mandatory provisions of Section 33(1) of the Act and he cannot be prosecuted and proceeded against vicariously for and on behalf of the Company.

Paragraphs 16 and 18 of the complaint (Annexure P1) read as under:-

> *"16. That this product was manufactured and supplied for sale to M/s Balaji Sales Corporation, Maur Mandi by M/s Pioneer Pesticides Pvt. Ltd., Bathinda through Jaskaran Singh (Godown Incharge), Suresh Kumar Kochhar s/o Late bhoop Chand (Responsible Person for Quality Control), M/s Pioneer Pesticides Pvt. Ltd., Samba(J&K) Kanwaljit Singh Josan s/o Harbans Singh Josan-Director and Responsible Person of M/s Pioneer Pesticides Pvt. Ltd., Samba (J&K), for quality and conduct of business under section 33 of Insecticides Act, 1968 on behalf of manufacturer.*
>
> *18. That in the interest of justice, the accused Rajinder Kumar s/o Ramesh Nath (Prop.) M/s Balaji Sales Corporation, Maur Mandi, Jaskaran Singh (Godown Incharge) & Yashbir Singh Maan (Responsible Person for conduct of business) M/s Pioneer Pesticides Pvt. Ltd., Samba (J&K), Kanwaljit Singh Josan(Director) and Suresh Kumar Kochhar (Responsible Person for Quality Control), M/s Pioneer Pesticides Pvt. Ltd., be summoned and punished accordingly under law."*
>
> *xxx xxx xxx*

8. On the other hand, learned counsel for the respondent-State opposed the prayer and has submitted that, while initiating the prosecution under the Act, it is not necessary to reproduce the words contained under Section 33 of the Act and a perusal of the complaint would itself show that the requirement of Section 33 of the Act has been complied with and,therefore, no interference is

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called for by this Court .

9. After hearing the learned counsel for the parties at length, I find that the issue arising in the present case is no longer res-integra in view of the judgment of the Hon'ble Supreme Court in the State of NCT (supra). In the said case, the Hon'ble Supreme Court, while considering the scope of Section 33 of the Act, and having referred to the previous decisions of the Hon'ble Supreme Court, has held as under:-

> *"The ratio of all these cases is that the complainant is required to state in the complaint how a Director who is sought to be made an accused, was in charge of the business of the company or responsible for the conduct of company's business. Every Director need not be and is not in charge of the business of the company. If that is the position with regard to a Director, it is needless to emphasize that in the case of non-Director officers, there is all the more necessary to state what were his duties and responsibilities in the conduct of business of the company and how and in what manner he is responsible or liable. The legal position which emerges from a series of judgments is clear and consistent that it is imperative to specifically aver in the complaint that the accused was in charge of and was responsible for the conduct of business of the company. Unless clear averments are specifically incorporated in the complaint, the respondent cannot be compelled to face the rigmarole of a criminal trial.."*

10. Adhering to the facts of the present case in the impugned complaint (Annexure P1), so far as allegations against the present petitioner- Kanwaljit Singh Josan are concerned, the averments are that the petitioner is the Director and Responsible person of `M/s PPPL'.

> *xxx xxx xxx*
>
> *.....This view has been taken by the Apex Court in Monaheb Ketanbhai Shah & another v. State of Gujarat & others, 2004(3) RCR (Criminal) 800 which is reproduced as under :*
>
> > *"The primary responsibility is on the complainant to make necessary averments in the complaint so to make the accused vicariously liable. For fastening the criminal liability, there is no presumption that*

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> *every partner knows about the transaction. The obligation of the appellants to prove that at the time the offence was committed they were not in charge of and were not responsible to the firm for the conduct of the business of the firm, would arise only when first the complainant makes necessary averments in the complaint and establishes that fact. The present case is of total absence of requisite averments in the complaint."*
>
> *12. In view of the aforesaid discussions, this Court is of considered opinion that the prosecution against the petitioner rest upon the averments made in the complaint and does not fulfill the mandatory requirements and, therefore, vicarious liability cannot be fastened on the petitioner merely by citing him to be the Director of the Company.*
>
> *13. Accordingly, this petition is allowed. Compliant No. 15 dated 17.1.2013 under Sections 3(k)(i) 17, 18,29 and 33 Act read with Rules, 1971 titled as `State v. M/s Balaji Sales corporation and others' and the summoning order dated 17.1.2013 passed by the trial Court and subsequent proceedings arising therefrom are quashed against the petitioner."*

A perusal of the above judgment would show that in the said case also, the petitioner was a Director of the company in question and was addressed as "Director and Responsible Person", as the petitioner S.B.V.R. Prasad has been addressed in the present case and one Suresh Kumar Kochhar was stated to be Responsible Person for Quality Control, as is Manoj D. Patel in the present case. The coordinate Bench after considering the various judgments of the Hon'ble Supreme Court and of this Court, held that the mere averment to the effect that the petitioner was the Director and the Responsible Person did not fulfill the mandatory requirements and therefore, vicarious liability could not be fastened on the petitioner therein. Reliance was placed upon the judgment of the Apex Court in "***Monaheb Ketanbhai Shah & another vs. State of Gujarat & Others"*** reported as

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2004(3) RCR (Criminal) 800 in which it was held that the primary responsibility is on the complainant to make necessary averments in the complaint so as to make the accused vicariously liable and only when the said necessary averments are made, an occasion would arise for the accused to rebut the same. Reference in the said judgment has also been made to the judgment of the Hon'ble Apex Court in ***"State of NCT of Delhi vs. Rajiv Khurana"*** reported as ***2010(3) RCR (Criminal) 912*** in which it was observed that every Director need not be and is not in charge of the business of the company and the complainant is required to state as to how he was Incharge of the business of the company or responsible for the conduct of the company's business and that it is needless to emphasise that in the case of non-Director officers, it is all the more necessary to state as to what were his duties and responsibilities in the conduct of business of the company and how and in what manner he is responsible or liable for the same.

Another coordinate bench of this Court in the case of ***Yadwinder Singh's*** case (supra) has held as under:-

> *"Learned counsel for the petitioner contends that petitioner was only Godown Incharge, being under the employment of respondent No.6-M/s United Phosphorus Ltd., manufacturer of the aforesaid insecticide. The petitioner had no role or control in the manufacturing, selling and distribution of the aforesaid insecticide. He has illegally been summoned to face trial.*
>
> *Learned State counsel has not been able to refute the submissions made by learned counsel for the petitioner.*
>
> *Resultantly, agreeing with the contention of learned counsel for the petitioner in toto, petition is accepted and impugned complaint No.21 dated 01.04.2016 (A-1) and summoning order dated 01.04.2016 are quashed qua the petitioner only."*

A perusal of the present complaint would show that the petitioner S.B.V.R. Prasad is sought to be prosecuted only on the ground that he is the director of the accused no.3 company and petitioner Bhagwan

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Dass is sought to be prosecuted as he is the Manager-cum-godown incharge and there is no specific averment in the entire complaint to show as to how the said two persons were incharge of the business of the company or were responsible for the conduct of the company's business in any manner or had any role to play with respect to the quality of the products which were manufactured by accused no.3 company. Moreover, in the present case, it is apparent from the complaint itself that Manoj D. Patel was the person who was stated to be the Responsible Officer for Quality Control. The said fact has been mentioned in the first page of the complaint where the details of the parties have been given as well as in paragraphs 2, 11 and 12 of the complaint. It is also the specific case of the petitioners, as is clear from the averments made in para 10 of the petition, that the said Manoj D. Patel, Manager Quality Control had already been appointed in view of Section 33 of the Insecticides Act, 1968 and it was also stated in paragraph 11 that it is the said Manoj D. Patel who was directly concerned with the quality of the products and he has already been proceeded against. It is thus, apparent that it is Manoj D. Patel, who had been specifically nominated as responsible officer for quality control.

Keeping in view the above said facts and circumstances and the law laid down in the above said judgments, continuation of the proceedings against the present two petitioners would be an abuse of the process of the Court and accordingly, both the petitions are allowed and the impugned complaint and the summoning order passed are set aside /quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

August 06, 2022
Davinder Kumar

Whether speaking / reasoned Yes/No
Whether reportable Yes/No

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