

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

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CRM-M-8208-2014

Date of Decision: 02.12.2022

PARAMJIT KAUR**...Petitioner****VERSUS****STATE OF PUNJAB****...Respondent****Coram: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. Vivek K. Thakur, Advocate
for the petitioner

Mr. Digvijay Nagpal, AAG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

The petitioner through instant petition is seeking quashing of complaint dated 23.07.2013 under Section 19(a) (b) and 19 (c) of the Fertilizer (Control) Order, 1985 (Annexure P-9) and summoning order dated 23.07.2013 passed by learned Chief Judicial Magistrate, Tarn Taran (Annexure P-10).

Learned counsel for the petitioner submits that petitioner vide invoice dated 08.11.2011 purchased DAP from M/s Coromandal International Limited, Secunderabad (Andhra Pradesh). The officials of respondent inspected shop of the petitioner and drew samples on 13.12.2011. As per report of the laboratory the nitrate contents are not as per prescribed standard. The minimum nitrate contents must be 16 whereas in the case of sample in question, contents were found 14.48. The petitioner has purchased fertilizer in question from a reputed Company and name of manufacturer was duly mentioned in the licence dated 31.03.2011 issued by the Competent Authority. Learned counsel for the petitioner submits that petitioner was holding valid license at the relevant point of time and goods in question were purchased from a manufacturer whose name was duly disclosed in the license issued to the petitioner, thus, petitioner cannot

be responsible for any variation in the goods in question. Learned counsel for the petitioner further submits that complaint has been filed by an officer who was not competent to file. As per notification dated 10.07.1991, only Chief Agriculture Officer was competent to file the complaint whereas it has been filed by Inspector Fertilizer, Patti.

Learned State counsel submits that officer who filed complaint was duly authorized and competent to file the complaint. He further submits that there was no infirmity in drawing sample and testing thereof. The petitioner was selling the fertilizer in question, thus, he was equally responsible for the compliance of standards prescribed under the Fertiliser (Control) Order, 1985.

I have perused the record and heard the arguments of both sides.

The undisputed fact emerging from the record are that the petitioner during the period in question was holding valid license issued by competent authority; the petitioner had purchased fertiliser in question from a reputed company whose name was duly mentioned in the license issued by competent authority; the bag from which sample was drawn was found duly stitched; no alteration in the bag was found; the petitioner is not a manufacturer; he is a dealer.

This Court in *State of Punjab versus Jagdish Chand and Another*, reported as **2004(2) R.C.R (Criminal) 478**, where sample of cattle feed was found to be substandard, has observed that the accused, who was a dealer, cannot be held guilty. Further, in the case of *Arun Kumar and Others versus State of Punjab; 1995 (3) R.C.R (Criminal) 231*, the accused purchased bags of fertiliser from National Fertilizer Limited and kept the same in original form without any tampering. Sample from bags were found to be sub-standard. This Court held that it could not be said that accused had any culpable mental state for

responsible.

In view of aforementioned facts and above cited judgment of this Court, the present petition deserves to be allowed and accordingly allowed. Complaint No.390 dated 23.07.2013 under Sections 19(a) (b) and 19 (c) of the Fertilizer (Control) Order, 1985 and order dated 23.07.2013 passed by learned Chief Judicial Magistrate, Tarn Taran, are quashed, qua the petitioner.

(JAGMOHAN BANSAL)
JUDGE

02.12.2022
mohit kumar

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