

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

**CRM-M-28321-2022
DECIDED ON: 24.11.2022**

**M/S CHAMBAL FERTILISERS AND CHEMICALS LIMITED AND
OTHERS**

.....PETITIONERS

VERSUS

**STATE OF PUNJAB THROUGH INSECTICIDE INSPECTOR
AGRICULTURE, SANGRUR**

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Veneet Sharma, Advocate for the petitioners.

Mr. Aman Dhir, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

This is a petition under Section 482 Cr.P.C. for quashing of complaint No.COMA-16-2018, dated 15.02.2018, titled as State of Punjab through Insecticide Inspector versus M/s Sant Attar Singh Kheti Sewa Centre and others, under Section 29 of the Insecticides Act, 1968 (Annexure P-1) and the order dated 17.11.2018 (Annexure P-3), passed by learned Chief Judicial Magistrate, Sangrur and all consequential proceedings arising therefrom.

Learned counsel for the petitioners relies upon the judgment dated 07.05.2022, passed by a Co-ordinate Bench of this Court in ***CRM-M-21496-2019***, titled as '***Anil Kapoor versus State of Punjab***' and submits that the case of the petitioners is squarely covered under the guidelines laid down by this Court in Anil Kapoor's case (supra).

Reply by way of an affidavit of Amarjit Singh, Agriculture

Development Officer-cum-Notified Insecticide Inspector, Sangrur has been filed on behalf of the respondent-State, which is taken on record,

After hearing learned counsel for the parties, this Court is of the considered view that the case of the present petitioners is squarely covered by the ratio of judgment in Anil Kapoor's case (supra). The relevant portion of the judgment in the said case reads as under:-

“The statutory mandate intends to penalize a person who has committed an offence. It does not intend to prosecute the people who are merely dealing with the said product and for which they have no control regarding its quality and content. The petitioner cannot be held vicariously liable and be penalized for misbranding of a product where he is not involved in the manufacturing process at all merely for having traded in the same. Section 3(k)(i) defines 'misbranding'. The same relates the label of products and its contents. It is not the case that any of the activities referred to under section 3 (k) attracting 'misbranding' was undertaken by the petitioner. Furthermore, Section 17 of the Act is also not attracted against the petitioner inasmuch as the petitioner is neither the importer of the misbranded insecticides, nor manufacturer thereof. Moreover, the ingredients of Section 18 of the Act are also not satisfied and there is no allegation that the petitioner had indulged in the sale of the insecticides, which was either not registered under the Act or was prohibited under Section 27. Similarly, Section 29 also would not be applicable against the petitioner inasmuch as the same contemplates punishment for offences as stated above. Once the necessary ingredients of the said Sections are not satisfied against the petitioner, they cannot be penalized

for the same.”

From the above, it may be clearly seen that the offence, as alleged to be made out according to the prosecution, under Section 29 of the Insecticides Act, 1968 (Annexure P-1) and the impugned order dated 17.11.2018 (Annexure P-3), passed by learned Chief Judicial Magistrate, Sangrur, is not made out because it is not the case that any of the activities referred to under section 3 (k) attracting 'misbranding' was undertaken by the petitioner. Furthermore, Section 17 of the Act is also not attracted against the petitioner inasmuch as the petitioner is neither the importer of the misbranded insecticides, nor manufacturer thereof. Accordingly, the ingredients of Sections 18 and 29 of the Insecticides Act, 1968, are also not attracted.

Therefore, the prayer in the present petition is allowed and complaint No.COMA-16-2018, dated 15.02.2018, titled as State of Punjab through Insecticide Inspector versus M/s Sant Attar Singh Kheti Sewa Centre and others, under Section 29 of the Insecticides Act, 1968 (Annexure P-1), and also the order dated 17.11.2018 (Annexure P-3), passed by learned Chief Judicial Magistrate, Sangrur, and all consequential proceedings arising therefrom are hereby quashed qua the petitioners.

Petition stands allowed, accordingly.

(SANDEEP MOUDGIL)
JUDGE

24.11.2022

Poonam Negi

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>