

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 14.10.2022

1. CRM-M-5355-2018

M/s. Crop Chemicals India Ltd. and others Petitioners

versus

State of Punjab Respondent

2. CRM-M-4508-2017

M/s. Judge Khad Store and Another Petitioners

versus

State of Punjab through Insecticide Inspector Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. R.K. Girdhar, Advocate
for the petitioners in CRM-M-5355-2018.

Mr. Amit Dhawan, Advocate
for the petitioners in CRM-M-4508-2017.

Mr. Arun Gupta, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

By way of present petitions filed under Section 482 Cr.P.C., prayer is for quashing of the complaint No.A/3/16 dated 11.02.2016 under Sections 3 (k) (i), 17, 18 and 33 of the Insecticides Act 1968, punishable under Section 29(1)(a) of the Insecticides Act, 1968 and Rules 1971 and the summoning order dated 11.02.2016 passed by learned SDJM, Nakodar and all consequential proceedings arising thereof.

2. Counsel for the petitioners submits that from the bare reading of the complaint, the same is barred by time as a limitation shall be governed by Section 468 Cr.P.C., which provide period of 03 years,

where offence is punishable with an imprisonment for a term not exceeding 03 years. He submits that as per contents of the complaint, the sample of the insecticides was drawn on 14.08.2012 and the same was sent to State Testing Laboratory at Amritsar on 24.08.2012 and the same was declared to be misbranded vide report dated 24.08.2012. The second sample was sent to Central Insecticides Laboratory, Faridabad on 24.08.2014 for reanalysis and the report dated 07.01.2013 confirmed that the sample was misbranded. He thus submits that the complaint ought to have been filed within 03 years from 24.08.2012. He further submits that even if the report of Central Insecticide Laboratory is to be treated as final, even then report beyond 03 years from 07.01.2013 was barred by limitation. He relies upon *M/s. Cheminova India Ltd. And another vs. State of Punjab and another, reported as 2021(8) SCC 818, State of Rajasthan vs. Sanjay Kumar, reported as 1998(5) SCC 82 and M/s. Chandan Pesticides and another vs. State of Punjab, reported as 2014 (3) RCR (Criminal) 949.*

3. State counsel is not in a position to dispute the aforesaid factual assertions made by counsel for the petitioners being based on record. However, he submits that the sanction was obtained only on 09.04.2014 and thus the limitation ought to have been counted from the date of sanction.

4. I have heard counsel for the parties and have gone through the records of the case.

5. The facts are not much in dispute. The issue relates to the date from which the limitation shall commence. Sections 468 and 469 of the Code read as under:-

“468. Bar to taking cognizance after lapse of the period of limitation.

- (1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub- section (2), after the expiry of the period of limitation.
- (2) The period of limitation shall be-

 - (a) six months, if the offence is punishable with fine only
 - (b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;
 - (c) three years, if the offence is punishable with imprisonment for term exceeding one year but not exceeding three years.
- (3) For the purposes of this section, the period of limitation in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.]

469. Commencement of the period of limitation.

- (1) The period of limitation, in relation to an offender, shall commence,-

 - (a) on the date of the offence; or
 - (b) where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or
 - (c) where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier.

(2) In computing the said period, the day from which such period is to be computed shall be excluded.

6. The aforesaid provision vis-a-vis Insecticides Act has been interpreted by the Apex Court in the case of M/s. Cheminova India Ltd. (supra) to hold as under:-

“Thus, it is a case of ‘misbranding’ within the meaning of [Section 3\(k\)\(i\)](#) of the Act and selling of such misbranded item is in violation of [Sections 17, 18, and 33](#) punishable under [Section 29](#) of the Act. From a reading of [Section 29](#), it is clear that the maximum punishment for such offence, if it is first offence, is imprisonment for a term which may extend to two years or with fine which shall not be less than ten thousand rupees which may extend to fifty thousand rupees, or with both. For a second and subsequent offence, the punishment is imprisonment for a term which may extend to three years or with fine which shall not be less than fifteen thousand rupees which may extend to seventy five thousand rupees, or with both. [Section 468](#) of Cr.PC prohibits taking cognizance of an offence after the lapse of period of limitation. As per sub-section (2)(c) thereof, the period of limitation is three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years. [Section 469](#) of Cr.PC deals with the ‘commencement of the period of limitation’. As per the said provision, the period of limitation, in relation to an offender, shall commence on the date of offence or where the commission of the offence was not [Crl.A.@S.L.P.\(Crl.\)No.4102 of 2020](#) known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier.”

7. In view of the settled proposition of law, the limitation shall commence on the date of offence or where the commission of offence was not known to the person aggrieved by the offence or to any police officer the first date on which such offence comes to the knowledge of such person.

8. Facts of the present case when tested on the testone of the aforesaid legal test, it cannot be denied that the complainant came to know about the offence on 24.08.2012 when the sample was declared misbranded. Thus, the contention raised by State Counsel w.r.t. the commencement of the limitation from the date of sanction of prosecution cannot be accepted.

9. Consequently, the present petitions are allowed. Complaint No.A/3/16 dated 11.02.2016 under Sections 3 (k) (i), 17, 18 and 33 of the Insecticides Act 1968, punishable under Section 29(1)(a) of the Insecticides Act, 1968 and Rules 1971 and the summoning order dated 11.02.2016 passed by learned SDJM, Nakodar and all consequential proceedings are hereby ordered to be quashed.

(PANKAJ JAIN)
JUDGE

14.10.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No