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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 25.07.2023

Pronouncing orders on : 02.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.6568 of 2022

1.M/s.Ramcides CropScience Pvt. Ltd.,
Formerly known as M/s.SDS Ramcides Crop Science Pvt. Ltd.,
Rep. by T.S.Ulaganathan, Senior Manager.

2.Mr.Gopal Ramabhadrachuri

3.Mr.T.S.Ulaganathan

...Petitioners

vs.

Union of India,
Represented by Sri.P.Vanniarajan,
Assistant Director (WS) & Insecticides Inspector,
Directorate of Plant Protection, Quarantine & Storage,
Regional Plant Quarantine Station,
Meenambakkam, Chennai – 600 028.

Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the proceedings in C.C.No.794 of 2021 on the file of the Court of the IVth Metropolitan Magistrate at Saidapet, and quash the same therein insofar as it relates to the petitioners herein.



For Petitioners : Ms.R.Prem Rajakumari
For Respondent : Mr.S.Diwakar
Central Government Standing Counsel

ORDER

This petition has been filed to quash the proceedings in C.C.No.794 of 2021 on the file of the IV Metropolitan Magistrate, Saidapet.

2.The respondent has filed a complaint against the petitioners for violation of Sections 17(1)(c) and 18(1)(d) of the Insecticides Act, 1968 (herein after referred to as 'the Act') and Rules thereunder punishable under Section 29 of the Act. The brief facts leading to the filing of the complaint is as follows:

- i. A complaint was received in the year 2016 by the respondent to the effect that some Indian entities have been importing Carbendazim Tech. from unapproved sources. Hence, it was decided to investigate the import of Carbendazim Tech. from January 2012 to July 2015.



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ii. During the scrutiny of the data , it was observed that the petitioners had imported eight numbers of consignment of Carbendazim Tech. during the year 2012-2015 from an unapproved source in China. The Carbendazim Tech. is used for manufacture of registered formulation for the control of fungus in certain field crops used by farmers. Since it is toxic, it is regulated under the Act.

iii. A Show Cause Notice dated 16.05.2016 was issued by the respondent calling upon the petitioners to submit the documents relating to the import of Carbendazim Tech. and other related documents to verify the details of the import from January 2012. Initially, there was no reply received from the petitioners and hence, the remainder letter was sent dated 10.01.2017. On receipt of the same, the petitioners gave a reply dated 24.01.2017 along with all the necessary documents.

iv. The respondent found that the supplier from whom the petitioners had imported the Carbendazim Tech. was



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neither mentioned in the Certificate of Registration issued to them nor was it approved by Central Insecticides Board and Registration Committee during the year 2012-2015.

- v. In view of the above, the respondent found that the petitioners have contravened the provisions of the Act and hence, sought for the consent/permission of the State Department under Section 31(1) of the Act for launching prosecution against the petitioners and the consent was provided through letter dated 31.10.2018. Pursuant to the same, the complaint came to be filed against the petitioners.

3.Heard Ms.R.Prem Rajakumari, learned counsel appearing on behalf of the petitioners and Mr.S.Diwakar, learned Central Government Standing Counsel appearing on behalf of the respondent.

4.This Court has carefully considered the submissions made on either side and the materials available on record.



5.The main grounds that were urged on the side of the petitioners is that the petitioners had obtained a Certificate of Registration of Insecticides under Section 9(4) of the Act and had imported eight consignment of Carbendazim Technical 98% from China for the period from 2012 to 2015 from approved source of manufacturer viz., M/s.Kajo Agrochemical Co. Ltd. (formerly Jiangyin Pesticide Factory) and through the following supplier:

- HC Agrochemicals Co., Ltd., China – 6 shipments (in the year 2012, 2013)
- Keray Chem-Tech Co., Ltd, China – 1 shipment (in the year 2013)
- Pacific Spot Ltd., China – 1 shipment (in the year 2015)

6.The next ground that was raised was that the offence punishable under Section 29 of the Act carries a maximum sentence of two years imprisonment and the complaint has been filed after nearly six years after the import of Carbendazim Tech. and hence, the Court below is barred from taking cognizance of the complaint under Section 468 of Cr.P.C.

7.Insofar as the first ground is concerned, the Secretariat of Central



Insecticides Board and Registration Committee through public notice dated 06.11.2011 had given the approved source of import of Carbendazim Technical 98%. One of the approved source is Kajo Agrochemical Co., Ltd., Jiangsu, China. The petitioners while giving their reply dated 24.01.2017 for the remainder notice dated 10.01.2017 have mentioned the manufacturer and the supplier of the Carbendazim Technical 98%. The source given by the petitioners along with the copy of the invoices shows that it is an approved source. In other words, petitioners were permitted to import from Jiangyin Pesticide Factory and the name of this manufacturer later underwent a change as Kajo Agrochemicals Co., Ltd. This information was specifically provided by the petitioners when they gave their reply dated 24.01.2017. Unfortunately, the respondent did not take note of the same. In fact, the first six shipments done during the year 2012, 2013 was from HC Agrochemicals Co., Ltd., for the product manufactured by Kajo Agrochemicals Co., Ltd. The seventh shipment in the year 2013 was sent by Keray Chem-Tech Co., Ltd, China. Even in this consignment, the manufacturer was Kajo Agrochemicals Co., Ltd. The last shipping was done in the year 2015 by Pacific Spot Ltd. Even in this case, the manufacturer was Jiangyin Pesticide Factory, China which later was named as Kajo Agrochemicals Co., Ltd.



8. In the instant case, the maximum punishment provided under Section 29 of the Act is two years imprisonment. The knowledge regarding the commission of the alleged offense was gathered by the respondent on 16.05.2016. However, the complaint came to be given only during September 2019. Section 470 of Cr.P.C., specifically excludes the time taken for getting the consent sanction of the Government or any other authority. In this case, the consent was sought for on 23.10.2018 and it was given on 31.10.2018. Even if this time is excluded, the commencement of the period of limitation will start from 16.05.2016, if it is taken to be the date of knowledge and in which case, the complaint should have been filed in three years as per Section 468(2)(c) of Cr.P.C. This will fall on 15.05.2019. If the period taken for taking the consent is excluded, at the best, only eight days can be excluded (from 23.10.2018 to 31.10.2018). Even then, the complaint that was filed during September 2019 cannot be taken cognizance, since it is barred under Section 468(2)(c) of Cr.P.C., and the Court below has not passed any order under Section 473 of Cr.P.C., extending the period of limitation. On this ground also, the complaint filed by the respondent is unsustainable.

9. In the light of the above discussion, the continuation of the criminal



proceedings against the petitioners will lead to an abuse of process of Court which requires the interference of this Court under Section 482 of Cr.P.C. In view of the same, the proceedings in C.C.No.794 of 2021 on the file of the IV Metropolitan Magistrate, Saidapet, is hereby quashed.

10.In the result, this criminal original petition stands allowed.

02.08.2023

Speaking Order/Non-Speaking Order

Index: Yes

Internet: Yes

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To

- 1.The IVth Metropolitan Magistrate, Saidapet.
- 2.Sri.P.Vanniarajan,
Union of India,
Assistant Director (WS) & Insecticides Inspector,
Directorate of Plant Protection, Quarantine & Storage,
Regional Plant Quarantine Station,
Meenambakkam, Chennai – 600 028.
- 3.The Public Prosecutor
High Court, Madras.



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N.ANAND VENKATESH.J.,

ssr

Order in
Crl.O.P.No.6568 of 2022

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