

CRM-M-3283-2020 (O&M)

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201 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-3283-2020 (O&M)
Date of Decision: 29.09.2023

M/s Rajiv Agro Centre Nabha and another

..... Petitioners

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Munish Gupta, Advocate, and
Mr. Akash Mehta, Advocate,
for the petitioner.

Mr. G.S.Sandhu, DAG, Punjab,
for the respondent-State.

RAJBIR SEHRAWAT, J. (ORAL)

1. The present petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of the complaint bearing No.COMA/1687 of 2016 dated 09.05.2016 filed under Section 27(5) of the Insecticide Rules, 1971, for violation of Section 3(K)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968, titled as '**State of Punjab Versus M/s Rajiv Agro Centre, Nabha and others**' and the summoning order dated 12.05.2016 passed by the Chief Judicial Magistrate, Patiala and all other consequential proceedings arising therefrom.

2. Pursuant to the previous order dated 23.08.2023, cost of Rs.1 lakh has been deposited with the District Legal Services Authority, Patiala, by the Inspector concerned.

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3. It is submitted by learned counsel for the petitioners that the sample of the insecticide was taken on 15.11.2011. The report of the public analyst was received on 23.12.2011. However, the complaint under the Insecticides Act, 1968, has been filed by the Inspector only on 12.05.2016. Therefore, the complaint is patently time barred. Under the provisions of Section 468 Cr.P.C, the Court was precluded from taking even cognizance of the offence, if the complaint is filed beyond the prescribed period of limitation. In the present case, the Court has taken cognizance without applying its mind to the issue of limitation.

4. On the other hand, learned counsel for the respondent-State has submitted that no doubt the complaint was filed beyond the prescribed period of limitation. However, along with the complaint, an application was filed by the complainant explaining the delay involved in filing the complaint. Otherwise also, in terms of Section 473 Cr.P.C, the Court can extend the prescribed time for filing the complaint either on application moved by the complainant or otherwise, if the Court finds it appropriate in the interest of justice. Therefore, the complaint cannot be dismissed on the said ground.

5. Having heard the respective counsels for the parties, this Court finds that the trial Court is prohibited for even taking cognizance of the offence unless the time is extended by the Court, for filing the complaint, on account of the factors mentioned in Section 473 Cr.P.C. However, in the present case, there is nothing on record to show that the Court has even

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applied its mind either to the application moved by the prosecution or otherwise, regarding extension of time limit for filing the complaint. Rather, straight way summoning order has been issued against the petitioner. Therefore, the Court below has acted in violation of the statutory mandate. Hence, the summoning order as such cannot be sustained in the present prospective. However, it would not be unjustified to require the trial Court to apply its mind on extension of time limit for filing of the complaint, before proceeding towards consideration of issuance of the summoning order.

6. Accordingly, the present petition is partly allowed. The summoning order dated 12.05.2016 is quashed.

7. However, the trial Court is directed to first pass an order qua the extension of time limit for filing the complaint, as deemed appropriate by it; and thereafter, apply its mind qua taking cognizance of the offence, if any.

(RAJBIR SEHRAWAT)
JUDGE

29.09.2023
adhikari

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No