

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M 29807 of 2016
DECIDED ON: 12th APRIL, 2023

M.P.S. RATHI AND ANR

.....PETITIONERS

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Rakesh Verma, Advocate
for the petitioners.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

The Jurisdiction of this Court has been invoked Under Section 482 for quashing of Complaint Case No. 155-2 dated July 20, 2012 titled as State v. M/s S.K. Pesticides and others, under Section 3(k)(1), 17, 18, 29 and 33 punishable under Section 29 of the Insecticides Act, 1968 and Rule 27(5) of Insecticides Rules, 1971 pending in the Court of learned Sub Divisional Judicial Magistrate, Jalalabad as well as summoning order dated July 20, 2012 and order dated November 03, 2014.

Learned counsel for the petitioners submits that the case of the petitioner is squarely covered by the ratio of judgment of this Court in CRM-M-1439-2015, titled as **“Balram Singh Yadav & others vs. State of Punjab;”** decided on 20.05.2016,

The afore-said fact has not been disputed by learned State counsel.

The relevant extract of **Balram Singh Yadav's** case (Supra) reads as under:-

*“ The maximum punishment for the present offence(s) is only two years whereas the complaint was lodged after a delay of more than three years. As such the same is barred by limitation, as per provisions contained in Section 468 of the Code. To fortify this contention, learned Senior counsel has relied upon the judgments of Hon'ble Apex Court rendered in the cases of **State of Rajasthan v. Sanjay Kumar; 1998 (3) RCR (Criminal) 846 and M/s Anand Trading Co. and another v. State of Punjab; 2010 (3) RCR (Criminal) 662.***

Per contra, learned State counsel is unable to dispute the afore-said submissions made by learned counsel for the petitioner.

*Undeniably the sample was drawn on December 31, 2008, which was found misbranded firstly on February 05, 2009 and secondly on March 30, 2009, whereas the complaint was lodged/instituted on July 20, 2012. The maximum punishment for the offence(s) complained of is two years but the complaint in this case was lodged after a delay of more than three years, which is unhesitated can be held to be barred by limitation, as per provisions contained in Section 468 of the Code. Thus, complaint No. 155-2 dated July 20, 2012 titled as **State v. M/s S.K. Pesticides and others**, pending in the Court of learned Sub Divisional Judicial Magistrate, Jalalabad as well as summoning order dated July 20, 2012 and order dated November 03, 2014 are liable to be quashed on this score alone.*

Adverting to the facts of the case in hand, the complaint was instituted on July 20, 2012 that is much after the expiry of three years. Thus, by that time the shelf life of the sample has already expired. Valuable statutory defence available to the accused was

lost by delayed institution of prosecution. It was obligatory upon the prosecution to lodge the complaint expeditiously, so that the right of the accused is not lost due to the expiry of sample. In the present case the respondent has opted to file a complaint after more than three years of the drawing of sample during which the sample expired which has resulted into a grave prejudice to the petitioner(s).

*As an upshot of the afore-said discussion, this Court is of the considered view that continuation of complaint No. 155-2 dated July 20, 2012 titled as **State v. M/s S.K. Pesticides and others**, would be nothing but sheer wastage of time and it would be a futile exercise to continue with the proceedings.”*

In view of the above, this Court is of the view that the case of the petitioners is squarely covered by the ratio of judgment of **Balram Singh Yadav’s case (supra)**.

Accordingly, the instant petition is allowed and complaint No. 155-2 dated July 20, 2012 titled as State v. M/s S.K. Pesticides and others, under Section 3 (k) (1), 17, 18, 29 and 33 punishable under Section 29 of the Insecticides Rules, 1971 pending in the Court of learned Sub Divisional Judicial Magistrate, Jalalabad as well as summoning order dated July 20, 2012 and order dated November 03, 2014 and all consequential proceedings emanating therefrom, are quashed qua petitioners.

(SANDEEP MOUDGIL)
JUDGE

APRIL 12, 2023
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No