

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.201

Case No. : CRM-M-5234-2018

Date of Decision : January 23, 2023

Sanjay Gupta and others Petitioners

vs.

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

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

Mr. Jaiteshwar S. Bhandari, AAG, Punjab.

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GURBIR SINGH, J. :

This is a petition under Section 482 Cr.P.C. for quashing the impugned complaint bearing No.COMA-77/2017 dated 06.12.2017, registered under Sections 3(k)(i), 17, 18, 29, 33 of Insecticides Act, 1968 (hereinafter referred to as – the Act), titled **State vs. M/s Janta Kheti Sewa Centre & Others**, pending in the Court of learned Chief Judicial Magistrate, Moga (Annexure P-1) and Summoning Order dated 06.12.2017 (Annexure P-2), along with all consequential proceedings arising therefrom.

The learned counsel for the petitioners contends that as per the version mentioned in the complaint, on 18.06.2014, one Taranjit Singh – Insecticide Inspector, Nihal Singh Wala, District Moga, visited the shop premises of one dealer namely M/s Janta Kheti Sewa Centre, Badhani

0.05% GR with manufacturing date of May 2014 and expiry date of April 2016. The said insecticide was alleged to be manufactured by M/s Amber Crop Science Pvt. Ltd. and supplied to the dealer by the marketer namely M/s Jai Agro Industries, Bathinda. Out of the three parts of sample collected by Insecticide Inspector, one part was sent to Insecticide Quality Control Lab, Ludhiana for analysis and the same was found to be mis-branded vide report dated 25.06.2014, duly received in the office of Chief Agriculture Officer, Moga.

On 06.12.2017, the impugned complaint was instituted in the Court of learned Chief Judicial Magistrate, Moga, who, without going into the facts of the case and law on the point, took cognizance on the complaint and summoning order dated 06.12.2017 was passed by the Court.

In the present case, M/s Amber Crop Science Pvt. Ltd., Sonapat had already nominated one person i.e. Vishwa Ranjan Kumar Prasad (petitioner no.3), who is being prosecuted for and on behalf of his Company. So, prosecution of petitioner no.1 is totally illegal.

According to Section 305 Cr.P.C., whenever any offence is committed by a Company and it is prosecuted, it is the prerogative of that Company/Corporation to nominate a person by whom it is to be represented during trial and the Company/Corporation cannot be compelled to be represented by a particular or a specific officer/official.

The alleged offences in the complaint are punishable under Section 29 of the Act with imprisonment for a term up to two years whereas the present complaint was instituted after expiry of approximately 03 years and 05-1/2 months, after receipt of report by Public Analyst. Therefore, the

complaint is barred by limitation.

Learned counsel for the petitioners has submitted that even if the period spent for grant of sanction is excluded, still the complaint is barred by limitation. Further, the order of summoning passed by the learned Chief Judicial Magistrate, Moga is non-speaking.

Learned counsel for the petitioners, in support of his contentions, has relied upon various judgments i.e. M/s Cheminova India Ltd. and another vs. State of Punjab and another reported as 2021(3) RCR (Criminal) 750, Sirajul and others vs. The State of UP and another reported as 2015(3) RCR (Criminal) 661, Sohan Singh and others vs. State of Punjab bearing CRM-M-6763-2018, decided on 16.01.2023, Sher Singh and another vs. State of Punjab bearing CRM-M-17705-2018(O&M), decided on 05.02.2019, Sanjay Gupta and others vs. State of Punjab bearing CRM-M-1358-2018(O&M), decided on 30.04.2019 and Liyakat Ali Gauri vs. State of Rajasthan reported as 1996 (3) Crimes 241.

Learned State counsel has not disputed that the sample was drawn on 18.06.2014. One Kardeep Kamal, Proprietor of M/s Janta Kheti Sewa Centre, Badhni Kalan, who has been arrayed as accused in the impugned complaint, requested the Chief Agriculture Officer, Moga, by tendering a request letter in the shape of statement on 28.07.2014 to give him second opportunity to prove his innocence by getting the remaining sample of insecticide re-tested from the Central Government's Insecticide Laboratory i.e. Central Insecticide Laboratory, Faridabad. The second part

of the sample was sent to the aforesaid Laboratory on 28.10.2014. The report dated 24.11.2014, declaring the sample as mis-branded, was received in the office of Chief Agriculture Officer, Moga on 28.11.2014, which was further sent to the respondent vide acknowledgment dated 15.12.2014. The respondent sought permission to initiate action against the petitioners on 09.11.2016 and the same was forwarded by the Chief Agriculture Officer on 28.11.2016. The department permitted the respondent to file a complaint against the petitioners and the complaint was finally presented on 26.07.2017.

Petitioner no.1 is the Director of the firm in question, petitioner no.2 is firm itself through its Director i.e. petitioner no.1 and petitioner no.3 is the responsible person working as Country Head and Manager Quality Control of the firm.

Heard.

The limitation for filing a complaint under Section 468 Cr.P.C. is three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years. So, limitation in this case is three years.

In this case, on 18.06.2014, Taranjit Singh, who was working as an Insecticide Inspector, Nihal Singh Wala, District Moga, visited the shop of M/s Janta Kheti Sewa Centre, Badhani Kalan, District Moga and drew a sample of insecticide namely Triaccontanol 0.05% GR with manufacturing date of May 2014 and expiry date of April 2016. The said insecticide was alleged to be manufactured by M/s Amber Crop Science Pvt. Ltd. and supplied to the dealer by the marketer namely M/s Jai Agro

Industries, Bathinda. Out of the three parts of sample collected by Insecticide Inspector, one part was sent to Insecticide Quality Control Lab, Ludhiana for analysis and the same was found to be mis-branded vide report dated 25.06.2014, duly received in the office of Chief Agriculture Officer, Moga. The Insecticide Inspector, instead of sending one part of the sample to the State Insecticide Testing Laboratory, Ludhiana on the same day, submitted the sample on the next day. Thereafter, Show Cause Notice was issued to the manufacturing Company by the Chief Agriculture Officer, Moga. The Company sent its reply but the said reply was not considered by the Officer. On 06.12.2017, the impugned complaint was instituted in the Court of learned Chief Judicial Magistrate, Moga and summoning order dated 06.12.2017 was passed by the Court. The alleged offences in the complaint were punishable under Section 29 of the Act with imprisonment for a term up to two years whereas the present complaint was instituted after expiry of approximately 03 years and 05-1/2 months, after receipt of report by Public Analyst. Learned counsel for the petitioners has submitted that even if the period spent for grant of sanction is excluded, still the complaint is barred by limitation. The period spent for getting the second part of sample tested cannot be counted for extending the limitation.

Reliance in this regard has been placed on a judgment of Hon'ble Supreme Court in **M/s Cheminova India Ltd. (supra)** and while dealing with this issue, it has been held by the Apex Court as under :-

*“.....Merely because a further request
is made for sending the sample to the Central
Insecticide Testing Laboratory, as contemplated*

*under [Section 24\(4\)](#) of the Act, which report was received on 09.12.2011, receipt of such analysis report on 09.12.2011 cannot be the basis for commencement of limitation. The report of analysis received from the Insecticide Testing Laboratory, Ludhiana on 14.03.2011 itself indicates misbranding, as stated in the complaint, thus, the period of limitation within the meaning of [Section 469 Cr.PC](#) commences from 14.03.2011 only. In that view of the matter, we are clearly of the view that the complaint filed is barred by limitation and allowing the proceedings to go on, on such complaint, which is *ex facie* barred by limitation is nothing but amounts to abuse of process of law. Though the learned counsel has also raised other grounds in support of quashing, as we are persuaded to accept his submission that complaint filed is barred by limitation, it is not necessary to deal with such other grounds raised.”*

This proposition of law is already dealt with by the Co-ordinate Bench of this Court in judgment rendered on 30.04.2019 in **CRM-M-1358-2018 (O&M)** titled **Sanjay Gupta and others vs. State of Punjab.**

Since the complaint is barred by limitation, it cannot be proceeded further. If proceedings in the complaint are allowed to go, then it would amount to be the misuse of the process of law.

In view of the above discussion, the present petition is allowed and the complaint bearing No.**COMA-77/2017** dated 06.12.2017, registered under Sections 3(k)(i), 17, 18, 29, 33 of the Act, titled **State vs. M/s Janta**

Kheti Sewa Centre & Others, pending in the Court of learned Chief Judicial Magistrate, Moga (Annexure P-1) and Summoning Order dated 06.12.2017 (Annexure P-2) are hereby quashed along with all consequential proceedings arising therefrom.

January 23, 2023
monika

(GURBIR SINGH)
JUDGE

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