

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-30770-2019

Date of Decision:-17.08.2023

Mohd. Yamin.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Imran Farooqi, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The present petition has been filed by the dealer, seeking quashing of Complaint No.63 dated 4.10.2017, registered under Sections 3 (k)(i),17,18,29 and 33 of the Insecticides Act, 1968 and the summoning order dated 04.10.2017 passed by JMIC, Malerkotla, District Sangrur.

2. The petition has been filed with averments that on 25.07.2013, Jaswinder Singh, Insecticide Inspector, Malerkotla, District Sangrur visited the shop premises of the dealer i.e. M/s Chowdhary Kissan Sewa Centre, Bhaini Kambhoan Tehsil malerkotla, District Sangrur of which the petitioner was a proprietor and drew a sample of insecticide, namely, Cartap Hydrochloride 4% GR, bearing Batch No. ACS/CE/132, manufacturing date March, 2013 and expiry dated February, 2015. Thereafter, accordingly, Form XX was prepared by the above said Insecticide Inspector, Jaswinder Singh, mentioning the details of manufacturer, batch No., date of the

manufacture and the date of expiry of the product. After taking the sample, the same was sent for analysis to the Insecticide Quality Control Lab, Bathinda. The sample was found to be misbranded. The Insecticide Quality Control Lab., Bathinda; had sent a Report to this effect; which was received on 26.08.2013. On having been put to notice, the manufacturers had opted for analysis of the second sample. However, the second part of the sample was also found misbranded, and the report to this effect was received from the Central Insecticide Laboratory, Faridabad on 27.12.2013. The sanction for prosecution was applied for on 05.08.2016 and granted on 10.04.2017. Thereafter, the complaint was filed against the present petitioner who is the dealer and his co-accused, on 04.10.2017. The summoning order dated 04.10.2017 was issued against the accused under the provisions of the Insecticide Act and Rules framed thereunder. It is this Complaint and the summoning order which is being challenged by the petitioner through the present proceedings.

3. The counsel for the petitioner contends that the premises had been raided on 25.07.2013 the first sample report of the Insecticide Quality Control Lab, Bathinda was received on 26.08.2013 and the second part of the sample was found misbranded on 27.12.2013. However, the present complaint came to be instituted only on 4.10.2017 which was beyond the period of 03 years. Therefore, as the complaint was time barred it was liable to be quashed. Even otherwise, qua the co-accused of the petitioner who were the manufacturers and responsible officer of the manufacturing company the proceedings already stood quashed vide judgment Annexure P-

4.

4. The Counsel for the State does not dispute this factual position that the proceedings qua the co-accused already stand quashed.

5. I have heard counsel for the parties.

6. In ***Sanjay Gupta & Ors. Vs. State of Punjab CRM-M-1358-2018(O&M) Decided on 30.04.2019*** this Court passed the following order:-

“ The main argument of learned counsel for the petitioners is that under Section 29 of the Insecticide Act, the maximum punishment for the offence alleged against the petitioners is of imprisonment for 02 years. Therefore, as per Section 468(2) of Cr.P.C; the limitation for filing the complaint under Insecticide Act; would be 03 years. It is further contended that as per the judgment of the Hon'ble Supreme Court rendered in ***1998(3) R.C.R.(Criminal)846 titled as State of Rajasthan vs. Sanjay Kumar***, the limitation for filing of the complaint would start from the date of receipt of the report of Public Analyst. In the present case, the report of the Insecticide Quality Control Lab; Bathinda was received on 26.08.2013. Even the second part of the sample was found misbranded on 27.12.2013. Thereafter, the Chief Agriculture Officer and the Complainant, Insecticide Inspector, went in slumber and did not even apply for sanction of prosecution. After much delay the sanction of prosecution was applied for by the Complainant and the same was received. However, no complaint was filed by the Insecticide Inspector against the petitioners. Ultimately the complaint against the petitioners was filed only on 04.10.2017, which is much beyond the period of 03 years. Hence the complaint is time barred, per se. Such a huge delay has altogether prejudiced the defense of the petitioners, due to limitations of human memory. It is further contended by learned counsel for the petitioners that Section 468 Cr.P.C. prohibits the Court from taking cognizance of the offence, if the same is not brought to the Court within a period of limitation. Hence in the present case, taking of the cognizance by the Court itself stands vitiated. Accordingly, it is contended that the summoning order

passed against the petitioners can not be sustained. The counsel has further relied upon the judgment of the Hon'ble Supreme Court rendered in 2015(3) RCR(Criminal) 661; Sirajul and others vs. State of UP and another to contend that if the complaint is filed despite statutory bar then the complaint is liable to be quashed without much inquiry. Learned counsel has also relied upon the judgment of this Court rendered in CRM-M-6332-2018, Sohan Singh and others versus State of Punjab, decided on 29.08.2018, to contend that in similar circumstances the complaint and the summoning orders were quashed by this Court.

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In view of the above, facts and circumstances, this Court finds that the initiation and continuation of a complaint and the consequent proceedings against the petitioners, are not legally justified and sustainable. Because of the delay caused by the complainant, the present proceedings have resulted in misuse of the process of law and in defeating the ends of justice. The petitioners can no more be kept subjected to the proceedings of the complaint. Accordingly the complaint and consequent proceedings arising therefrom, deserve to be quashed.

In view of the above, the present petition is allowed and the Complaint No.63 dated 04.10.2017 registered under Sections 3(k)(i), 17,18,29 and 33 of the Insecticides Act, 1968 read with Rule 27(5) of the Insecticide Rules 1971 and the summoning order dated 04.10.2017 are hereby quashed.”

7. Admittedly, the petitioner who is the dealer is the proprietor of M/s Chowdhary Kissan Sewa Centre. The proceedings qua the manufacturing company and its responsible officers etc., already stand

quashed by this Court vide order dated 30.04.2019 (Annexure P-4) on the grounds that the complaint had been instituted more than 03 years after laboratory report had been received. In view of the fact that proceedings qua the co-accused already stand quashed no useful purpose would be served by allowing the present proceedings to continue and, therefore, the present petition is allowed and the complaint no.63 dated 04.10.2017 registered under Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968 titled as State Vs. M/s Chowdhary Kissan Sewa Centre & Ors. (Annexure P-1) and the summoning order dated 04.10.2017 passed by JMIC, Malerkotla, District Sangrur (Annexure P-2) and all consequential proceedings arising therefrom are hereby quashed qua the petitioner.

(JASJIT SINGH BEDI)
JUDGE

August 17, 2023
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No