

CRM-M-40794-2019
CRM-M-48552-2021
CRM-M-35678-2019

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2023:PHHC:166561

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CRM-M-40794-2019
DECIDED ON:13.03.2023

M/S CROP HEALTH PRODUCTS AND ANOTHER
.....PETITIONERS

VERSUS

STATE OF PUNJAB
.....RESPONDENT

2. CRM-M-48552-2021

RANDEEP SINGH AND ANOTHER
.....PETITIONERS

VERSUS

STATE OF PUNJAB
.....RESPONDENT

AND

3. CRM-M-35678-2019

GODREJ AGROVET LIMITED AND OTHERS
.....PETITIONERS

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON’BLE MR.JUSTICE SANDEEP MOUDGIL

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

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Vide this common order, this Court intends to dispose of the aforesaid petitions bearing No. CRM-M-40794-2019 CRM-M-48552-2021, CRM-M-35678-2019 & as common question is involved in all the petitions.

2. To avoid repetition the facts are being taken from CRM-M-40794-2019.

3. This is a petition under section 482 Cr.P.C seeking quashing of Complaint Case No. 2865 dated 20.02.2018, titled as State versus M/s Rana Pesticides and others (Annexure P-3), under Rule 27(5) of the Rules, 1971 for alleged the violations of Sections 3(k) (i), 17, 29 and 33 of the Insecticides Act, 1968 and order dated 22.10.2018 (Annexure P-5) passed by the Chief Judicial Magistrate, Patiala condoning delay of 9 years 1 month 27 days and summoning order dated 22.10.2018 (Annexure P-6) passed by the Chief Judicial Magistrate, Patiala.

4. Learned Counsel for the petitioners contends that the Petitioner No. 1 is the owner M/s Rana Pesticides, i.e. Petitioner No.2 and on 15.12.2008, the complainant Gurmail Singh inspector visited the shop of Petitioner No. 1 who was present at the shop and was found in possession of 23 packet of Clodinofof Propargyl (160 gm each) of Godrej Videout brand Clodinofof Propargy 15% WP of 160 gm packing manufactured by M/s Crop Health Product Ltd, Ghaziabad and marketed by M/s Godrej Agrovat Ltd., Jammu and complainant drew three samples of 16 gm each of the alleged insecticides on 15.12.2008 and packed them in clean polythene bags for the purpose of sampling and sample was sent to the Senior Analyst, on 19.12.2008 and the same was found to be mis-branded vide report dated 24.12.2008 (Annexure P-1) as received in the office of Chief

Crop Health Products Ltd and Others to explain as to why the sample was found mis-branded.

5. Further, the counsel for the petitioners asserts that the present complaint is filed after 9 year 1 month 27 days of the receipt of public analytics report dated 24.12.2008 (Annexure P-1) which is barred by law of limitation under Section 468(2)(C) Cr.P.C. Moreover, the complainant did not give any explanation as to why the complaint was not filed once the report from Public analysts was received way back on 24.12.2008.

6. In addition, counsel for the petitioners submits 3 alleged samples of insecticide was drawn on 15.12.2008, 1 alleged sample was sent to the Senior Analyst, Insecticide Testing Laboratory, Amritsar on 19.12.2008, the alleged Public Analyst Report dated 24.12.2008, from Senior Analyst, Insecticide Testing Laboratory, Amritsar, was duly received in the office of Chief Agriculture Officer, Patiala but the present complaint has been instituted on 20.02.2018 in the Court of the Chief Judicial Magistrate, Patiala after a period of 9 years 1 month 27 days after receipt of the Public Analyst Report, hence, the same is barred by limitation.

7. That the order dated 22.02.2018 (Annexure P-5) passed by CJM, Patiala condoning the delay is also without any explanation and is illegal arbitrary and not sustainable in the eyes of law and hence the counsel for the petitioners prays for quashing of the complaint Case No. 2965 dated 20.02.2018 (Annexure P-3).

8. Learned State counsel has filed reply by way of affidavit of Gurmail Singh, Agricultural Development officer, which is taken on record and further submits that the petitioners have no cause of action to file the present petition as

matter is already pending before the trial court and further the innocence can be proved by leading evidence.

9. Furthermore the State counsel asserts that an application under Section 5 of the Limitation Act for the condonation of delay in filing of the complaint has been filed by State of Punjab, wherein they stated that in order file complaint under Section 27 (5) of Rules 1971, a prior consent or approval under Section 31(1) of the Act 1968, is required and accordingly letter of approval/sanction was sent within time by the competent authority. But it took sufficient long time through proper channel to obtain said sanction. Thus, the delay in filing the complaint is neither intentional nor deliberate.

10. Be that as it may, considering the fact that the present complaint is filed after period of 9 years to which he failed to show any sufficient cause is time barred under Section 468(2)(C) of Cr.P.C. read with Section 29(1)(i) of Insecticides Act, 1968. A further scrutiny of Section 469(1)(b) would make it clear that the commencement of period of limitation shall commence “where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier”.

11. From the perusal of the facts, the date of limitation commenced from 24.12.2008 whereas the complaint was filed on 20.02.2018. The State counsel has tried to apportion this delay to Joint Director of Agriculture (Plant Protection), Punjab, S.A.S Nagar for not granting the sanction for initiating prosecution against the petitioner. Once the samples were drawn on 15.12.2008 they should have been sent to State Public Analyst as early as possible but the samples were sent on 19.12.2008, meaning thereby that for continuous period of 4

Patiala, to which no explanation has been rendered by the State counsel and the delay is sufficient enough to raise suspicion in the mind of the Court. Further, the Apex Court in judgment titled as ***Hasmukhlal D. Vora & Anr. Versus The State of Tamil Nadu 2023 (1) RCR (Crl) 624*** has observed as under:-

"Delay wherever found is required to be explained by the prosecution. If the delay is reasonably explained, no adverse inference can be drawn, but failure to explain the delay would require the Court to minutely examine the prosecution version for ensuring itself as to whether any innocent person has been implicated in the crime or not. Insisting upon the accused to seek an explanation of the delay is not the requirement of law. It is always for the prosecution to explain such a delay and if reasonable, plausible and sufficient explanation is tendered, no adverse inference can be drawn against it."

12. While inordinate delay in itself may not be a ground for quashing of a criminal complaint, in such cases, unexplained inordinate delay of such length must be taken into consideration as a very crucial factor as grounds for quashing a criminal complaint.

13. While it is true that the quashing of a criminal complaint must be done only in the rarest of rare cases, it is still the duty of the High Court to look into each and every case with great detail to prevent miscarriage of justice. The law is a sacrosanct entity that exists to serve the ends of justice, and the courts, as protectors of the law and servants of the law, must always ensure that frivolous cases do not pervert the sacrosanct nature of the law.

14. Further, the Apex Court in ***Sirajul and others vs. State of U.P. and another 2015(3) RCR*** has held that if the complaint is filed despite statutory bar then the complaint is liable to be quashed without much enquiry.

15. Therefore, in the light of recent judicial pronouncement in ***Hasmukhlal D. Vora (supra)*** case and submission made thereof, the present

hopelessly time barred and all the consequent proceeding arising therefrom is liable to be quashed and order dated 22.10.2018 (Annexure P-5) and order dated 22.10.2018 (Annexure P-6) is quashed qua the petitioner.

16. Accordingly the present petition is disposed of.
17. A copy of this order be placed on the files of the other connected petitions.

13.03.2023

Sham

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

(SANDEEP MOUDGIL)

JUDGE