

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-34828-2016 (O&M)  
Date of Decision: 08.04.2024

M/S SYNGENTA INDIA LTD. & OTHERS

... Petitioners

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Amit Jhanji, Sr. Advocate with  
Ms. Jasneet Kaur, Advocate,  
Ms. Nikita Garg, Advocate,  
Ms. Himani Makkad, Advocate and  
Mr. Ashish Kothari, Advocate  
for the petitioners.

Ms. Ramta K Chaudhary, DAG, Punjab.

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JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the Criminal Complaint No.67 of 2014, dated 23.07.2014 (Annexure P-1) registered under Section 29 read with Sections 3(k)(i), 17, 18, 29 and 33 of Insecticides Act, 1968 titled as '*State through Insecticides Inspector Versus M/s Jagjit Singh & sons and others*', the summoning order dated 13.01.2015 (Annexure P-2) passed by the Sub Divisional Judicial Magistrate, Patti, District Tarn Taran and all subsequent proceedings arising therefrom qua the petitioners only.

2. The brief facts of the case are that one Paramjit Kaur was the sole proprietor of M/s Jagjit Singh & Sons and held a valid license to sell, stock or exhibit for sale or distribution of insecticides issued by the

competent authorities vide license no T-98/P-141/08/TT dated 01.01.2012 which was periodically renewed. The complainant/Insecticide Inspector (Patti) in his official capacity inspected the premises/shop of Paramjit Kaur i.e. M/s Jagjit Singh & Sons along with Shri Jasbir Singh Gill, Agricultural Development Officer, Block Patti and Shri Rajinder Kumar, Agricultural Sub Inspector on 04.12.2012. The stock was verified in respect of Clodinofofop-Propargyl 15% WP which was manufactured by M/s Pioneer Pesticides Pvt Ltd, Samba (J&K) and it was found that there were 20 bags of 160 gms packing.

The complainant/Insecticide Inspector took 3 loose samples of 20 gms each of Clodinofofop-Propargyl 15% WP bearing batch No. SPP IJ-401, with manufacturing date 30.10.2011; Expiry date 29.10.2013 and packed them in 3 different pouches and tied them with tags. Thereafter, Form XX and XXI under 1971 Rules were filled in the presence of Shri Jasbir Singh, husband of Paramjit Kaur. One of the three pouches of samples taken at the spot were handed over to the said Jasbir Singh whereas two pouches of samples were handed over to Shri Surinderpal Singh, Agricultural Development Officer (Plant Protection), Tarn Taran on 05.12.2012. Out of these two pouches, one pouch of the sample was sent to Senior Analyst, Insecticide Testing Laboratory Bhatinda vide letter no 6948 dated 10.12.2012 by the Chief Agriculture Officer, Tarn Taran through Heera Singh Beldar.

As per record, the Senior Analyst, Insecticide Laboratory Bathinda after analyzing the sample reported it to be mis-branded as it contained only 13.55% of the active ingredient content of Clodinofofop-Propargyl 15 % WP Brand Topic labeled on the package from which samples

were drawn with the remarks that the sample did not conform to I.S.I specification vide report dated 26.12.2012. The said report was received in the office of the complainant on 01.01.2013 leading to the filing of complaint No.67 dated 23.07.2014 and the summoning order dated 13.01.2015. The copies of the complaint dated 23.07.2014 and the summoning order dated 13.01.2015 are attached as Annexures P-1 & P-2 to the petition.

3. The learned Senior counsel for the petitioners contends that so far the petitioners were concerned, they were only the marketing company and the liability if any lay only with the manufacturer. Reliance is placed on Section 30 of the Insecticides Act, 1968 as also the judgment of this Court in the case of *M/s Rallis India Limited & others Versus State of Punjab Thro Insecticide Inspector, CRM-M-20338-2017, decided on 20.04.2022.* He further contends that proceedings stand quashed with respect to the dealer M/s Jagjit Singh & Sons and the authorized person namely, Parmajit Kaur vide judgment dated 05.02.2024 passed in CRM-M-10512-2015. Proceedings also stand quashed qua Kanwaljit Singh Joson, Director and responsible person of the manufacturing company vide judgment dated 07.09.2017 passed in CRM-M-19057-2016. The case of the petitioners was on a better footing than that of Kanwaljit Singh Joson who was the Director and responsible person of the manufacturing company. He, therefore, contends that the complaint (Annexure P-1) and summoning order (Annexure P-2) were liable to be quashed qua the present petitioners as well.

4. On the other hand, the learned State counsel has not disputed the factual position and arguments as narrated above. She, however, contends that as the offence *prima facie* was made out all the accused were liable.

5. I have heard the learned counsel for the parties.
6. Before proceeding further in the matter, it would be apposite to examine Section 30 of the Insecticides Act, 1968 and the same is reproduced hereinebelow:-

**Section 30 of the Insecticides Act, 1968**

*30. Defences which may or may not be allowed in prosecutions under this Act.—(1) Save as hereinafter provided in this section, it shall be no defence in a prosecution under this Act to prove merely that the accused was ignorant of the nature or quality of the insecticide in respect of which the offence was committed or of the risk involved in the manufacture, sale or use of such insecticide or of the circumstances of its manufacture or import.*

*(2) For the purposes of section 17, an insecticide shall not be deemed to be misbranded only by reason of the fact that—*

*(a) there has been added thereto some innocuous substance or ingredient because the same is required for the manufacture or the preparation of the insecticide as an article of commerce in a state fit for carriage or consumption, and not to increase the bulk, weight or measure of the insecticide or to conceal its inferior quality or other defect; or*

*(b) in the process of manufacture, preparation or conveyance some extraneous substance has unavoidably become intermixed with it.*

*(3) A person not being an importer or a manufacturer of an insecticide or his agent for the distribution thereof, shall not be liable for a contravention of any provision of this Act, if he proves—*

*(a) that he acquired the insecticide from an importer or a duly licensed manufacturer, distributor or dealer thereof;*

*(b) that he did not know and could not, with reasonable diligence, have ascertained that the insecticide in any way contravened any provision of this Act; and*

*(c) that the insecticide, while in his possession, was properly stored and remained in the same state as when he acquired it.”*

7. In the case of **M/s Rallis India Limited** (supra) while quashing proceedings against the marketing agency/licenced dealer, this Court held as under:-

*22.It is evident from a perusal of the petition as well as documents appended along with the same that the undisputed case of the respondent-State is that the petitioners were a marketing agent of the insecticides. It has been repeatedly so affirmed by the respondent in various paragraphs of the complaint instituted through Insecticide Inspector and already extracted above. It is also not a subject matter of dispute that the sample was drawn from a sealed packet and it is nowhere alleged that the sample had not been stored in accordance with the provisions contained under the Insecticides Act and Rules framed thereunder. There is also no allegation that the petitioners were responsible for the quality of the product as also for ensuring the labelled ingredients of the same. The petitioners are not nominated as the authorised/responsible officers in terms of Section 33 of the Insecticides Act. The statutory mandate intends to penalize a person who has committed an offence. It does not intend to prosecute the people who are merely dealing with the said product and for which they have no control as regards its quality and content. The petitioners cannot be held vicariously liable and to be penalized for misbranding of a product where they were not involved in the manufacturing process at all merely for having traded in the same. Section 3(k)(i) defines misbranding. The same relates to the label of products and its contents. It is not the case that any of the activities referred to under section 3 (k) attracting misbranding was*

*undertaken by the petitioners. Further, Section 17 of the Act is also not attracted against the petitioners inasmuch as the petitioners are neither the importer of the misbranded insecticides, nor manufacturer thereof. Further, the ingredients of Section 18 of the Act are also not satisfied and there is no allegation that the petitioners had indulged in the sale of the insecticides, which was either not registered under the Act or was prohibited under Section 27. Similarly, Section 29 also would not be applicable against the petitioners inasmuch as the same contemplates punishment for offences as stated above. Once the necessary ingredients of the said Sections are not satisfied against the petitioners, they cannot be penalized for the same.*

**CONCLUSION:**

*23. Having noticed the undisputed facts, the position of law as well as statutory provisions under which the petitioners are sought to be prosecuted, I find myself in agreement with the precedent judgements of this Court referred to in the preceding paragraphs of this judgment. Considering the same along with undisputed fact, the instant petition is allowed and the complaint No.18 of 11.07.2016 (Annexure P-1) titled as 'State Versus M/s Goyal Sales Corporation and Others' pending in the Court of Judicial Magistrate First Class, Sri Muktsar Sahib for offences under Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968 read with Section 27(5) of the Insecticides Rules, 1971 as well as the subsequent proceedings including the order of summoning dated 11.07.2016 (Annexure P-2) are accordingly quashed qua the petitioners.*

(emphasis supplied)

8. Admittedly, in the instant case, the petitioners are the marketing company and its Director/responsible persons. The samples were taken from sealed packings. Clearly, the petitioners were not responsible for

manufacturing or quality control of the misbranded insecticide for which the liability if any lay with the manufacturer. Proceedings qua the dealer and one of the Directors/responsible person of the manufacturing company already stand quashed. Therefore, the petitioners are entitled to the similar relief.

9. In view of the above, I find considerable merit in the present petition. Therefore, the Criminal Complaint No.67 of 2014, dated 23.07.2014 (Annexure P-1) registered under Section 29 read with Sections 3(k)(i), 17, 18, 29 and 33 of Insecticides Act, 1968, the summoning order dated 13.01.2015 (Annexure P-2) passed by the Sub Divisional Judicial Magistrate, Patti, District Tarn Taran and all consequential proceedings arising therefrom stand quashed.

(JASJIT SINGH BEDI)  
JUDGE

08.04.2024

JITESH

Whether speaking/reasoned:- Yes/No  
Whether reportable:- Yes/No