



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No.20380 of 2022 (O&M)
Reserved on: July 30th, 2024
Pronounced on: August 20th, 2024

Ranjit Singh and another
.....Petitioners
Versus

State of Punjab
.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J.

Prayer in the instant petition filed under Section 482 of the Code of Criminal Procedure, 1973, is for quashing of complaint case No.224 dated 25.05.2017 under Section 3(k)(i), 17, 18, 29 and 33 of The Insecticides Act, 1968 (hereinafter referred to as 'the Act'), read with Rule 27(5) of Insecticides Rules, 1971, titled as State Vs. M/s Goyal Pesticides Store & others, summoning order dated 09.06.2017 (Annexure P-2) and all consequential proceedings arising therefrom qua the petitioners.

2. As per the allegations levelled in the complaint (Annexure P-1), on 14.08.2014, Insecticides Inspector, Harjas Pal Sharma (hereinafter referred to as 'Inspector') visited the premises of M/s Goyal Pesticides Store (hereinafter referred to as 'the firm') and collected a sample of the insecticide cartap hydrochloride 4% G Batch No.561, manufactured in April, 2014, with an expiry date of March, 2016, purportedly by M/s. Thakar Chemicals Limited (hereinafter referred to

as ‘manufacturing company’). Following the procedure prescribed under the Act, three samples were drawn and prepared. One of the sealed sample was sent to the Senior Public Analyst at the Insecticide Testing Laboratory, Ludhiana, on 21.08.2014. The test report received on 16.09.2014 from the Ludhiana Laboratory indicated that the sample was misbranded, as one of the active ingredients was found to be only 1.03% compared to the required ISI specification of 4%. Upon request made by the dealer, the referral sample was sent to the Central Insecticide Laboratory, Faridabad (hereinafter referred to as ‘Faridabad Laboratory’), which also confirmed that the sample was misbranded. Subsequently, after completing the necessary formalities and obtaining consent from the competent authority, the complaint was filed before the learned JMIC, Talwandi Sabo, under Sections 3(k)(i), 17, 18, 29 and 33 of the Act and Rule 27(5) of Insecticides Rules, 1971, on 25.05.2017. The Court vide order dated 09.06.2017 (Annexure P-2), summoned all the accused, including the present petitioners namely Ranjit Singh (Manager, M/s. Thakar Chemicals Ltd.) and M/s.Thakar Chemicals Ltd. through its Manager Ranjit Singh, to face trial. Hence, this petition.

3. Learned counsel for the petitioners contends that the trial Court erroneously summoned the petitioners, who was the Quality Control Manager of the manufacturing company, despite the ingredients of the alleged offences not being made out against him. Learned counsel has emphasized that under Section 22 of the Act, the Insecticide Inspector is mandated to send the sample ‘forthwith’ to the Insecticide Analyst for testing. However, in the present case, the sample

drawn on 14.08.2015, was sent to the Insecticide Analyst only on 21.08.2014, that is after a delay of seven days. During this period, the Chief Agriculture Officer, Bathinda, retained the test sample portions from 14.08.2014 to 21.08.2014, despite no legal provision authorizing such custody. The learned counsel has further argued that given that the sample was prepared by the Insecticide Inspector after opening a sealed pack with bare hands, it was imperative to send the sample for analysis without delay to prevent potential deterioration or contamination. The handling and delay in sending the samples raise serious concerns about whether the sample was stored under appropriate conditions, as required for chemical products, and whether it might have deteriorated or been contaminated, given the specific storage conditions necessary to avoid contact with air, water or moisture. Therefore, it has been asserted that the non-compliance with Section 22 of the Act warrants quashing of proceedings against the petitioners. In support, he has placed reliance upon *CRM-M No.12926 of 2018* titled as *Sohan Singh Versus State of Punjab*.

4. *Per contra*, learned State counsel has opposed the submissions made by the counsel opposite by asserting that the petitioner, as the Quality Control Manager, was directly responsible for the affairs of the company, particularly ensuring the quality of its insecticides. It has been further argued that the petitioners had *prima facie* committed offences punishable under Sections 3(k)(i), 17, 18, 29 and 33 of the Act. Furthermore, while acknowledging the seven days delay in sending the insecticide sample to the Analyst, it has been argued by the learned State counsel that this delay does not weaken the

case of the prosecution, as the sample was collected in accordance with the procedure outlined in Section 22 of the Act, and it was received by the laboratory in an intact and unbroken condition, without any signs of tampering. Furthermore, the Insecticide Analyst Report annexed as Annexure R-1 corroborates that the sample was received in a sealed intact and unbroken condition, and was also found to be fit for analysis. Still further, it has been argued that the sample was analyzed on two separate occasions, first on 21.08.2014 and then on 13.03.2015, by two different laboratories, and both times, it was found to be misbranded. Hence, the petitioner as the Quality Control Manager cannot evade responsibility based on the delay in sending the sample. Additionally, learned State counsel has submitted that the Government routinely collects multiple samples from various locations within its jurisdiction, which sometimes leads to delays in sending samples to the laboratory. However, this delay in the present case would not benefit the petitioners since the sample in question was found to be fit for analysis.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. Before proceeding further, it would be apposite to refer to the observations made by Hon'ble the Supreme Court in ***Cheminova India Ltd. Versus State of Punjab 2021 SCC Online SC 541*** with regard to the liability of the Quality Control Manager, which are as under:-

“19. Section 33 of the Act deals with ‘offences by companies’. A reading of Section 33(1) of the Act, makes it clear that whenever an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge

of, or was responsible to the company for the conduct of the business of, the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. In the case on hand, it is not in dispute that on behalf of the 1st Appellant – Company, 2nd Appellant – Managing Director has furnished an undertaking dated 22.01.2013, indicating that Shri Madhukar R. Gite, Manager of the Company, has been nominated in the resolution passed by the Company on 28.12.2012 to be in charge of and responsible to the said Company, to maintain the quality of the pesticides manufactured by the said Company and he was authorized to exercise all such powers and to take all such steps, as may be necessary or expedient to prevent the commission of any offence under the Act. Filing of such undertaking with the respondent is not disputed. Even, at Para 5.10 in the counter affidavit filed before this Court, it is pleaded by the Respondents that by appointing persons responsible for affairs of the Company, quality control, etc., 2nd Appellant – Managing Director cannot escape his liability from offences committed by 1st Appellant – Company. In view of the specific provision in the Act dealing with the offences by companies, which fixes the responsibility and the responsible person of the Company for conduct of its business, by making bald and vague allegations, 2nd Appellant – Managing Director cannot be prosecuted on vague allegation that he being the Managing Director of the 1st Appellant – Company, is overall responsible person for the conduct of the business of the Company and of quality control, etc. In the instant case, the Company has passed a resolution, fixing responsibility of one of the Managers namely Mr. Madhukar R. Gite by way of a resolution and the same was furnished to the

respondents by the 2nd Appellant in shape of an undertaking on 22.01.2013. When furnishing of such undertaking fixing the responsibility of the quality control of the products is not in dispute, there is no reason or justification for prosecuting the 2nd Appellant – Managing Director, on the vague and spacious plea that he was the Managing Director of the Company at the relevant time. A reading of Section 33 of the Act also makes it clear that only responsible person of the Company, as well as the Company alone shall be deemed to be guilty of the offence and shall be liable to be proceeded against. Though, the Managing Director is overall incharge of the affairs of the company, whether such officer is to be prosecuted or not, depends on the facts and circumstances of each case and the relevant provisions of law. Having regard to specific provision under Section 33 of the Act, and the undertaking filed in the present case, respondent cannot prosecute the 2nd Appellant herein. Thus, we find force in the contention of Mr. Sidharth Luthra, learned Senior Counsel, that allowing the prosecution against 2nd Appellant – Managing Director is nothing but, abuse of the process of law. At the same time, we do not find any ground at this stage to quash the proceedings against the 1st Appellant – Company.”

7. Adverting to the instant case, undisputedly, the petitioner was serving as a Quality Control Manager of the company in terms of Section 33 of the Act. Therefore, this Court does not find any merit in the contentions raised by the learned counsel for the petitioners that the delay in sending the samples to the Insecticide Analyst would vitiate the prosecution against him. Still further, a perusal of the report (Annexure R-1) of the Insecticides Analyst reveals that it was sent to

the laboratory on 21.08.2014 with the shelf life of the batch expiring in March, 2016. The report confirms that the sample was properly sealed, fastened, intact and unbroken, and was further found to be fit for analysis. The petitioners while placing reliance on *CRM-M No.12926 of 2018* titled as *Sohan Singh Versus State of Punjab*, has argued that a delay of six days in sending the sample was deemed fatal due to the non-compliance with the mandatory requirement of Section 22 (6) of the Act. However, this Court is of the considered opinion that the impact of such delays must be evaluated based on the specific facts of each individual case. In the present case, sample was collected on 14.08.2014, deposited in the office of the Chief Agriculture Officer, Bathinda, on the same day, and sent for analysis on 21.08.2014, resulting in a delay of just seven days. Learned State counsel has justified this delay, explaining that additional samples were collected from the area and were then collectively sent to the laboratory. Since the shelf life of the sample extended up till March, 2016, the seven days delay cannot be considered prejudicial to the rights of the petitioners, especially given that they were offered the opportunity to request re-testing, which was availed by them, and the sample was found to be misbranded even by the Faridabad Labortary. Furthermore, while Section 22 (6) of the Act requires that samples be sent 'forthwith' for analysis, a minor, well explained delay of seven days could not have in any manner compromised the rights of the petitioners, especially when the sample was declared fit for analysis by both the laboratories.

8. As a sequel to the above, this Court finds no merit in the present petition qua the petitioners.

9. Accordingly, the instant petition stands dismissed.
10. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.
11. In the light of the decision of the petition, all pending applications stand disposed of.

August 20th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No