

CRM-M-11828-2019 (O&M)
CRM-M-19643-2019 (O&M)

2024:PHHC:039402
2024:PHHC:039404

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Reserved on : February 29, 2024
Date of Decision : March 19, 2024

(I) CRM-M-11828-2019 (O&M)
Tejinderpal Singh and others ...Petitioners

Versus

State of Punjab ...Respondent

(II) CRM-M-19643-2019 (O&M)
M/s Shiv Shanker Agro Service Centre and another ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued By: -Ms. Monika Puri, Advocate and
Mr. Ramnish Puri, Advocates for the petitioners.

Mr. Sahil R. Bakshi, DAG, Punjab.

DEEPAK GUPTA, J. (Oral)

This order shall dispose of two petitions titled above, both filed under Section 482 of the Code of Criminal Procedure, with prayer to quash complaint case No.COMA-85-2018 titled as “*State through Amarjit Singh Insecticide Inspector, Moga vs. M/s Shiv Shanker Agro Service Centre and Others*” (Annexure P-13) under Sections 3(k)(i), 17, 18, 29, 33 of the Insecticides Act, 1968 (hereinafter referred as 'the Act') read with Rule 27(5) of the Insecticides Rules, 1971, pending for adjudication in the Court of learned Chief Judicial Magistrate, Moga,

apart from the summoning order dated 25.09.2018 (Annexure P-14) and all the consequential proceedings arising therefrom qua the petitioners.

2. As it emerges on perusal of the paper book that on 04.08.2014, Insecticide Inspector, Moga visited the premises of **M/s Shiv Shanker Agro Service Centre**, Railway Road, Moga dealing in sale of insecticides. After making necessary statutory compliances, he drew a sample of insecticide *Cartap Hydrochloride* 4% GR (Brand Name : SUMO), with manufacturing date as May, 2014 and expiry date as April, 2016, marketed by **M/s Adfert Technologies Pvt. Ltd.** and manufactured by **M/s Vadodara Agro Sciences**. Out of the samples collected by the Insecticide Inspector, one of them was sent to the Senior Analyst, Insecticides Testing Laboratory, Bathinda through Chief Agricultural Officer, Moga vide letter dated 07.08.2014 (Annexure P-4). The report of the Insecticide Testing Laboratory, Bathinda was received in the office of Chief Agriculture Officer, Moga on 28.08.2014 (Annexure P-5), as per which sample was found to be mis-branded. Copies of the report were sent to dealer, marketer and manufacturer. At the request of dealer, reference sample was got re-tested from the Central Insecticides Laboratory, Faridabad, but the Director, Central Insecticides Laboratory, Faridabad, in its report dated 01.07.2015 (Annexure P-12) reported that the sample was misbranded. After obtaining necessary sanction from the competent authority, complaint was filed on 25.09.2018 (Annexure P-14) to prosecute the dealer, marketer as well as manufacturer and their respective representatives under Sections 3(k)(i), 17, 18, 29, 33 of the

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Act. Learned Chief Judicial Magistrate, Moga, vide order dated 25.09.2018 ordered summoning of all the accused to face prosecution.

3. CRM-M-11828-2019 has been filed by the manufacturing and the marketing firm alongwith their representatives; whereas CRM-M-19643-2019 has been filed by the dealer and his representatives.

4. (i) Although quashing of the complaint as well as summoning order have been sought on various grounds, but Ld. Counsel for the petitioners contend before this court that the petitions deserve to succeed on one point itself, i.e., bar of limitation, as all the alleged offences under the Act are punishable under Section 29 of the Act up to two years imprisonment and so, as per mandatory provision of Section 468 Cr.P.C., the limitation to launch prosecution is three years, but in the present case, the impugned complaint has been instituted after a delay of more than 04 years from the date of receipt of the Public Analyst report and so, being hopelessly barred by limitation, the same is not maintainable.

(ii) To support the contention, Ld. counsel has relied upon a decision of this Court in **CRM-M-3715-2023** titled as ***Sandeep Goyal and others Vs. State of Punjab*** decided on 8th May, 2023, in which reliance had been placed upon a decision of Hon'ble Supreme Court titled as ***M/s Cheminova India Ltd. and another Vs. State of Punjab and another, 2021(3) RCR (Crl) 750***; and ***Sohan Singh vs. State of Punjab*** CRM-M-12926-2018, decided on 16.01.2023.

(iii) Ld. Counsel contends that as the case is covered by the statutory bar of limitation, so the same is liable to be quashed without any

further inquiry, as has been held by Hon'ble Supreme Court in *Sirajul and others Vs. State of UP and another*, 2015(3) RCR (Crl) 661.

With the aforesaid submissions, prayer is made for quashing the complaint in question along with summoning order and all subsequent proceedings.

5. (i) Respondent had opposed the petitions by submitting that necessary statutory compliances were made before filing the complaint. However, status report as filed by the respondent or the complaint (Annexure P-13) did not specify as to when the sanction of the competent authority was applied. Therefore, this Court vide order dated 08.02.2023 directed the respondent to clarify as to when sanction was applied for prosecuting the accused. In reply thereto, affidavit dated 12.12.2023 of Shri Manjeet Singh, Chief Agriculture Officer, Moga, has been filed to reveal that requisite sanction was applied by the office of Chief Agriculture Officer on 19.09.2017 and the same was granted by the competent authority on 16.10.2017. In the said reply, it is conceded that complaint has been filed beyond the period of limitation as prescribed under the Act, but unconditional apology has been sought for causing delay in filing the complaint.

(ii) Ld. state counsel submit that the time consumed for obtaining sanction to prosecute the accused is liable to be excluded, in view of Section 470 Cr.P.C. It is further contended that period of limitation will start from the date of receiving report from the Central Insecticide Laboratory, as it is the accused-petitioners, who were not satisfied with

the report of the Public Analyst and had made a request for re-testing. Still further, it is contended that after applying the judicious mind, Id. trial Court rightly issued the impugned summoning order. It is lastly urged that no prejudice has been caused to the petitioners in any manner and so, they should face trial. With all these submissions, prayer is made for dismissal of the petitions.

6. I have considered submissions of both the sides and have also perused the record carefully.

7. Various offences as provided under the Act are punishable under Section 29 of the Act and for the first offence, the maximum imprisonment, which may be imposed is two years or with fine or both. Besides, written consent of the State Government or the person authorized in this behalf by the State Government, is pre-requisite before launching the prosecution, as per Section 31 of the Act.

8. Offences being punishable up to two years imprisonment i.e., less than three years, therefore, as per Section 468(2)(c) Cr.P.C., the period of limitation shall be three years to take cognizance of the offence. The period of limitation is to commence from the date of offence as per Section 469 Cr.P.C. Since the previous consent of the State Government or the officer authorized by it is mandatory before launching the prosecution as noticed above, so Section 470 Cr.P.C. is necessary to notice, the relevant portion of which is as under: -

“470. Exclusion of time in certain cases.

(1) xxxx

(2) xxxx

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(3) Where notice of prosecution for an offence has been given, or where, under any law for the time being in force, the previous consent or sanction of the Government or any other authority is required for the institution of any prosecution for an offence, then, **in computing the period of limitation, the period of such notice or, as the case may be, the time required for obtaining such consent or sanction shall be excluded.** Explanation. - In computing the time required for obtaining the consent or sanction of the Government or any other authority, the date on which the application was made for obtaining the consent or sanction and the date of receipt of the order of the Government or other authority shall both be excluded.

(4) xxxx”

9. In the present case, sample was taken on 04.08.2014. It is on 28.08.2014, when the report of the Public Analyst was received and it became known to the complainant that due to misbranding, the offences had been committed by the petitioners-accused. Therefore, in view of Section 469 (1)(a) Cr.P.C., the period of limitation shall commence from this date i.e., 28.08.2014. Complaint was filed on 25.09.2018, i.e., after a gap of 04 years and 28 days from the date of commencement of limitation.

10. The contention of Ld. State counsel for the respondent to the effect that as accused – dealer as well as manufacturer had applied for re-analysis of the second part of the sample through Central Insecticide Laboratory, Faridabad, so limitation shall commence from the date of receipt of the report of Central Insecticide Lab, has no merit, in view of the legal position explained by the Hon'ble Supreme Court in case of **“M/s Cheminova India Ltd. & Anr. vs State of Punjab and Anr.”**, reported as **2021(3) R.C.R. (Criminal) 750** and also by this Court in case

of *Sandeep Goyal and others Vs. State of Punjab (supra)* and “*Sohan Singh and others v State of Punjab*” (*supra*), wherein a similar issue was raised.

11. In “*M/s Cheminova India Ltd.’s case (supra)*”, report of the Analyst from the Insecticide Testing Laboratory was received on 28.08.2014; whereas complaint was filed on 25.09.2018 i.e., beyond a period of three years. The submission was made by the State counsel that report from the Central Insecticide Laboratory was received on 06.07.2015, which was the conclusive evidence of the fact of misbranding and so, complaint was within the period of limitation. Rejecting the said contention, it was held by the Hon'ble Supreme Court, as under: -

“10. ---- We are not convinced with such submission made by learned counsel for the State. When it is clear from the language of [Section 469 Cr.PC](#) that the period of limitation shall commence on the date of offence, there is no reason to seek computation of limitation only from the date of receipt of report of the Central Insecticide Testing Laboratory, Faridabad. As per the procedure prescribed under the Statute, i.e., Insecticide Act, 1968 and the rules made thereunder, the Insecticide Testing Laboratory, Ludhiana was the competent authority to which the sample was sent on 17.02.2011, after drawing on 10.02.2011, and the report of analysis was received on 14.03.2011, as such the said date is said to be the crucial date for commencement of period of limitation. By virtue of the said report received on 14.03.2011 which states that the active ingredient of the sample was only to the extent 34.70% as against the labeled declaration of 40%, it is clear that it is the date of offence allegedly committed by the accused. 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 mis-branding, 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.
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12. Similar view was taken by this court in *Sandeep Goyal (supra)*; *Sohan Singh (supra)* and also in CRM-M-17705-2018 (O&M) titled as “*Sher Singh and another vs State of Punjab*” decided on 05.02.2019; and CRM-M-1358-2018 (O&M), titled as “*Sanjay Gupta and others vs State of Punjab*” decided on 30.04.2019.

13. It is no doubt true that period consumed for obtaining the consent of the State Government to launch the prosecution is liable to be excluded while computing the limitation period, as per Section 470 (3) Cr.P.C., but in this case, even if the said period is excluded, the complaint will still be beyond limitation.

14. The sanction was applied by the Insecticide Inspector on 19.09.2017 (as evident from affidavit of CAO) and the same was allowed on 16.10.2017 and therefore, this period of 28 days is liable to be excluded for computing the period of limitation. Even if, this period of 28 days is excluded for the purpose of computation of limitation, the complaint instituted on 25.09.2018 is still after 04 years from the date of commencement of limitation and thus, beyond limitation period.

15. In view of the aforesaid discussion, there cannot be any hesitation to conclude that complaint in question being time barred, is not

maintainable. It has been held by Hon’ble Supreme Court in “*Sirajul & Ors. v. The State of U.P. & Anr.*”, 2015(3) R.C.R.(Criminal) 661, that cases covered by statutory bar of limitation may be liable to be quashed without any further inquiry, although for the cases not covered by statutory bar, ground of delay can be pleaded in appropriate cases due to violation of the speedy trial.

16. In the present case, the complaint in question is statutorily barred by limitation and so, being not maintainable, is liable to be quashed without any further inquiry.

17. Consequent to above discussion, both the petitions are allowed. The impugned complaint, the summoning order and all subsequent proceedings arising therefrom, are hereby quashed for the reasons that complaint itself is not maintainable, being barred by limitation.

Photocopy of this order be placed on the connected case file.

March 19, 2024
Sarita

(DEEPAK GUPTA)
JUDGE

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