

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37453-2019

RAMAN DEEP SINGH AND ANOTHER

...Petitioners

V/S

STATE OF PUNJAB

...Respondent

CRM-M-24657-2019

BHAGWAN DASS AND ANR.

... Petitioners

V/S

STATE OF PUNJAB

... Respondent

CRM-M-29214-2018

NARAHARI PULLAIAH

... Petitioner

V/S

STATE OF PUNJAB

... Respondent

CRM-M-41073-2019

PANKAJ GUPTA AND ANOTHER

... Petitioners

V/S

STATE OF PUNJAB

... Respondent

Date of decision: 15.01.2024

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rakesh Verma with
Mr. Manish Verma, Advocates
for the petitioner(s).

Mr. Sandeep Kumar, DAG Punjab

HARPREET SINGH BRAR J. (ORAL)

1. This common order shall dispose of the above-mentioned petitions as they arise out of the same complaint. For the sake of brevity, facts are taken from the case CRM-M-37453-2019.

2. Above-mentioned petitions have been filed under Section 482 Cr.P.C. for quashing of the complaint titled 'State vs. M/s The Farmers Agri Store & Others' bearing No.77 dated 09.03.2018 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 pending in the Court of learned Sub-Divisional Judicial Magistrate, Phul, District Bathinda(Annexure P-1) as well as order dated 09.03.2018(Annexure P-2) whereby the petitioners have been summoned to face trial, and all consequential proceedings arising therefrom.

3. It is pertinent to mention here that petitioner No.2 'M/s The Farmers Agri Store' in CRM-M-37453-2019 is a licensed dealer of various insecticides/pesticides and Petitioner No.1 is its proprietor. The said firm sells originally sealed and packed containers of insecticides/pesticides of registered manufacturing companies. While in CRM-M-24657-2019, Petitioner No.2 'M/s ADAMA India Pvt. Ltd. (formerly known as M/s Makhteshim Agan India Pvt. Ltd.)' is a marketing company, where Petitioner No.1 & 3 are its office bearers. The said firm is a registered marketer of various kinds of insecticides and pesticides. Whereas, Petitioner in CRM-M-29214-2018 is the Director of the aforesaid marketing company and in CRM-M-41073-2019 Petitioner No.2 'M/s Pankaj Sales Corporation' is a licensed seller of insecticides and pesticides and Petitioner No.1 is its proprietor. The said firm also sells originally sealed and packed containers of insecticides/pesticides of registered manufacturing

companies.

4. The facts, in brief are that on 04.08.2015, the complainant-Insecticide Inspector visited the shop premises of an insecticides/pesticides dealer namely M/s The Farmers Agri Store, located at Chauke, District Bathinda. A sample of an insecticide, namely Cartap Hydrochloride 4% GR having Batch no. MC405060CA with date of manufacturing – 10.05.2014 and date of expiry – 09.05.2016, was drawn out of an originally sealed packing of 5 kg along with a purchase of 750 grams of the same vide bill No. 201 dated 04.08.2015. Three test samples of 250 grams each out of the said 750 grams were prepared by the Inspector. The said insecticide was manufactured by M/s Jayalakshmi Fertilisers, Tanuku (Andhra Pradesh) and supplied by M/s ADAMA India Pvt. Ltd., Hyderabad to the distributor Pankaj Sales Corporation, Rampura. Thereupon, one of the representative test sample was sent to Senior Analyst, Insecticide Testing Laboratory, Ludhiana on 14.08.2015 for testing. Vide analysis report dated 09.09.2015, the same was found to be misbranded as the active ingredients came out to be 2.73% instead of 4% GR. Thereafter, a show cause notice was issued to the petitioners by the office of Chief Agriculture Officer, Bathinda. The petitioners filed their respective replies in furtherance of which a referral part of the sample was sent to Central Insecticide Laboratory, Faridabad for re-analysis. Vide report dated 11.04.2016, the same was found to be misbranded as before. Thereafter, on 09.03.2018, the above-mentioned complaints were instituted by Insecticides Inspector, Rampura Phul, District Bathinda, whereby, the learned trial Court took cognizance of the same and issued above-mentioned summoning orders against the petitioners.

5. Learned counsel for the petitioners inter alia contends that the

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sample was drawn on 04.08.2015 but the same was sent for analysis on 14.08.2015. It is contended by him that such delay of 10 days is in clear violation of mandatory provisions of Section 22(6) the Insecticides Act, 1968 and is itself fatal to the case of respondent-State. Learned counsel for the petitioners further submits that it is an admitted fact in the present case that the sample was drawn from an original sealed pack of the insecticide, as manufactured, packed and sealed by the manufacturing company and therefore, liability if any, lies only upon the said manufacturing company. To support his contentions, reliance is placed by the learned counsel for the petitioners on judgements passed by this Court in *M/s Rallis India Limited and others vs. State of Punjab, 2022(3) RCR(Criminal) 880; Sohan Singh vs. State of Punjab, CRM-M-12926-2018; Amarjit Singh and others vs. State of Punjab CRM-M-2441-2017; Jindal Fertilizers and Chemicals and others vs. State of Punjab, 2010(4) RCR(Crl) 146.*

6. Per contra learned State counsel opposes the prayer made by the petitioners on the ground that the probable defence of the petitioners cannot be looked into by this Court at this stage and it remains a matter of trial and only on the basis of evidence led by the parties the conclusion can be drawn in favour of the petitioners by the learned trial Court.

7. Having heard learned counsel for the petitioners and after perusing the record with his able assistance, it is quite apparent that the sample was taken from the original packing. The reply dated 01.12.2020 filed by way of affidavit of Dharminderjit Singh, Agriculture Officer, Rampura has not controverted the afore-said fact. As such, it is an undisputed case where the petitioners are either marketers or dealers for the manufacturer, they cannot be considered as

authorized responsible officers in terms of Section 33 of the Act of 1968. The petitioners cannot be held liable vicariously and penalized for misbranding of product for which they were not at all involved in the manufacturing process and as per Section 3(a)(i) of the Act, only the manufacturer can be held liable.

8. In view of the above discussion, the above-mentioned petitions are allowed. Impugned complaint dated 09.03.2018(Annexure P-1) and summoning order dated 09.03.2018(Annexure P-2) and all consequential proceedings arising therefrom qua the petitioners stand quashed.

(HARPREET SINGH BRAR)
JUDGE

January 15, 2024
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No