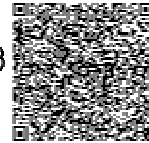


2025:PHHC:104983



**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

1. CRM-M-11903-2018 (O&M)

M/s Cheminova India Ltd. and others

...Petitioners

Versus

State of Punjab and others

...Respondents

2. CRM-M-45430-2018 (O&M)

M/s Gill Pesticides Charik

...Petitioner

Versus

State of Punjab and others

...Respondents

3. CRM-M-24330-2018 (O&M)

M/s Crop Chemical India Ltd. and another

...Petitioners

Versus

State of Punjab

...Respondent

**Reserved on : 14.07.2025
Pronounced on : 13.08.2025**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Nitin Thatai, Advocate
for the petitioners in CRM-M-11903-2018.

Mr. Pankaj Maini, Advocate
for the petitioner in CRM-M-45430-2018.

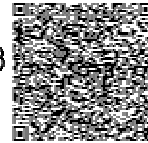
Mr. R. K. Girhdar, Advocate
for the petitioners in CRM-M-24330-2018.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J.

1. This common order shall dispose of above mentioned three petitions as they are similar in nature and arise out of the same complaint and

2025:PHHC:104983

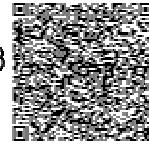


seek similar reliefs. However, for the sake of convenience, the facts are being extracted from ***CRM-M-11903-2018***.

2. The instant petition has been filed by the petitioners under Section 482 of Code of Criminal Procedure (*for short 'Cr.P.C.'*)[*which is pari materia with Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023*]/seeking quashing of Criminal complaint bearing No. 11 of 2018, titled as ***State vs. M/s Gill Pesticides and others***, pending before the Court of learned Chief Judicial Magistrate, Moga as well as for quashing of order dated 29.01.2018 passed therein, whereby the petitioners and respondent Nos. 3 to 7 (who are in fact petitioners in other two petitions) were ordered to be summoned as accused to face trial for commission of offences punishable under Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticide Act, 1968 (*for short 'the Act, 1968'*).

3. Brief facts of the case relevant for the purpose of disposal of the present petitions are that the aforementioned complaint has been filed through the Insecticide Inspector, Moga on the allegations that Jasvir Singh, proprietor of M/s Gill Pesticides was dealing with selling and stocking of insecticides and pesticides. A license was obtained by him for running this business. On 21.07.2011, the Insecticide Inspector along with other officials had visited the shop of M/s Gill Pesticides and had checked its stock register. 64 bags of Cartap Hydrochloride 4% G were found lying in the stock, which were manufactured and supplied by petitioner No. 1-M/s Cheminova. The complainant purchased 750 grams of Cartap Hydrochloride 4% G on the same day. A sample was drawn in accordance with the provisions laid down in the

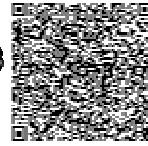
2025:PHHC:104983



Act, 1968. The bags containing the samples were sealed. One sample was handed over to the proprietor of M/s Gill Pesticides. Two sealed samples were kept by the Insecticide Inspector. One of them was sent to the Insecticide Testing Laboratory, Amritsar, vide letter No. 38 dated 25.07.2011 and was deposited with the laboratory on the same day. Its report was received on 28.07.2011, as per which, the sample was declared to be misbranded as it did not conform with the IS specifications with respect to percentage active ingredient content as instead of 4%, the active ingredient contained therein was found to be only 3.66%. In view of the same, sanction to launch prosecution was obtained. Show cause notice was sent to Jasvir Singh, proprietor of M/s Gill Pesticides under the provisions of Section 24(2) of the Act, 1968. Simultaneously, show cause notices were issued to petitioner No. 1 and M/s Crop Chemical India Ltd. They filed replies to the notices. By alleging that M/s Gill Pesticides and its directors, who were sellers of the insecticide, M/s Crop Chemical India Ltd., who was manufacturer and petitioner No. 1 and its directors, who were marketers/distributors of the said insecticide, had committed offences under Sections 3(k)(i), 17, 18, 29 and 33 of the Act, 1968, prayer was made for summoning them to face trial for commission of aforementioned offences and thereafter, the impugned summoning order dated 29.01.2018 had been passed.

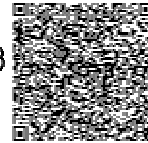
4. It is argued by learned counsel for the petitioners that the impugned complaint as well as the summoning order dated 29.01.2018 are not sustainable in the eyes. The petitioner No. 1/company was only a marketer/distributor of the alleged misbranded insecticide and its

2025:PHHC:104983



manufacturer was respondent No. 5-M/s Crop Chemical India Ltd. Respondent No. 3-M/s Gill Pesticides was given license to sell the stock of the insecticide during the relevant period. Its license was existing at that time. The petitioner/company had no control over the products manufactured by respondent No. 5 and the proceedings, if any, could have been initiated only against respondents No. 5 to 7, who are manufacturers/directors/authorized persons of respondent No. 5 and not against petitioner No. 1, who is only a distributor and remaining petitioners. Petitioner No. 2 was the Managing Director of petitioner No. 1/company. He had left the company by resigning from the post of director much prior and hence, he could not be implicated as an accused. It is further argued that the samples taken by the complainant on 21.07.2011 had been sent for testing on 25.07.2011. The report thereof had been received on 28.07.2011. It was again sent for re-analysis on 05.12.2011. The report of the re-analysis was received on 07.12.2011. Show cause notice was issued to the manufacturer i.e. respondent No. 5 on 08.08.2011, whereas the complaint was filed only on 29.01.2018 i.e. after a lapse of more than six years. However, the period of limitation for filing the complaint had expired after a period of three years. While passing the impugned summoning order, the learned Magistrate did not take these facts into consideration. That apart, the fact that respondent No. 2 had applied for grant of sanction and it was granted after 22.09.2017 had also not been taken into consideration. It is, therefore, submitted that the impugned complaint as well as the summoning order are not sustainable against the petitioners and are liable to be quashed qua them. To fortify his arguments, learned counsel for the petitioners has

2025:PHHC:104983



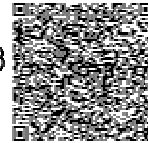
relied upon the authorities cited as ***Sohan Singh Gill and others vs. State of Punjab : 2023 (3) RCR (Criminal) 468, M/s Cheminova India Ltd. and another vs. State of Punjab and another : 2021 (3) RCR (Criminal) 750, M/s Mahindra Shubhlabh Services Limited and others vs. State of Punjab : 2023 (1) Law Herald 885 and M/s Gujarat Insecticides Ltd. and others vs. the State of Punjab and others, CRM-M-12269-2021, decided on 31.05.2024.***

5. Reply has been filed by the respondent-State. It is argued by learned Assistant Advocate General, Punjab that there is no illegality or infirmity in the impugned order, whereby the petitioners along with the co-accused have been summoned to face trial. The due procedure had been followed while drawing the samples and sending them for testing and while issuing show cause notices. Petitioner No. 2 was the Managing Director of petitioner No. 1/company at the relevant point of time and all the accused including petitioners herein are liable for prosecution for violation of the provisions of the Act, 1968. Hence, it is argued that the petition is devoid of any merits and is liable to be dismissed.

6. The rival submissions of both the parties have been heard at length, besides perusing the material placed on record carefully.

7. It is undisputed that on 21.07.2011, samples of insecticide Cartap Hydrochloride 4% G, as lying in the stock of M/s Gill Pesticides, had been drawn and sent for analysis. The analysis report was received on 28.07.2011, as per which, the sample was declared to be misbranded. The petitioners are sought to be prosecuted on the ground of misbranding of the said insecticide on the allegations that active ingredient contained was found to be 3.66%

2025:PHHC:104983



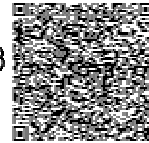
instead of 4% G and it was a case of misbranding within the meaning of Section 3(k)(i) of the Act, 1968 and selling of such misbranded insecticide was in violation of Sections 17 and 18, which is punishable under Section 29 of the Act, 1968. After receipt of analysis report on 28.07.2011, the complaint was lodged on 29.01.2018, which is beyond the period of three years. As per Section 469 of Cr.P.C., the period of limitation shall commence from the date of offence.

8. Further, Section 33 of the Act, 1968 deals with the offences by companies. As per this section, 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. Petitioner No. 2 was the Managing Director of petitioner No.1/company, though it has been argued that he had resigned from the company as on the date of filing of the complaint but at this stage, there is no material on record to show so. Petitioners No. 3 and 4 are Regional Manager and Godwon Incharge respectively of petitioner No. 1/company. In the absence of any material, it cannot be stated that petitioner No. 2 was not responsible for the affairs of the company and could escape his liability.

9. Before further delving in the matter, it would be appropriate to examine the relevant provisions of law in this regard. Section 29 of the Act, 1968 reads as under:-

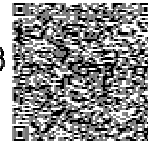
29. Offences and punishment.-(1) Whoever,-

2025:PHHC:104983



- (a) imports, manufactures, sells, stocks or exhibits for sale or distributes any insecticide deemed to be misbranded under subclause (i) or sub-clause (iii) or sub-clause (viii) of clause (k) of section 3; or
- (b) imports or manufactures any insecticide without a certificate of registration; or
- (c) manufactures, sells, stocks or exhibits for sale or distributes an insecticide without a licence; or
- (d) sells or distributes an insecticide, in contravention of section 27; or
- (e) causes an insecticide, the use of which has been prohibited under section 27, to be used by any worker; or
- (f) obstructs an Insecticide Inspector in the exercise of his powers or discharge of his duties under this Act or the rules made thereunder, [shall be punishable;
- (i) for the first offence, with imprisonment for a term which may extend to two years, or with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees, or with both;
- (ii) for the second and a subsequent offence, with imprisonment for a term which may extend to three years, or with fine which shall not be less than fifteen thousand rupees but which may extend to seventy-five thousand rupees, or with both.]
- (2) Whoever uses an insecticide in contravention of any provision of this act or any rule made thereunder shall be punishable with fine [which shall not be less than five hundred rupees but which may extend to five thousand rupees, or imprisonment for a term which may extend to six months, or with both].
- (3) Whoever contravenes any of the other provisions of this Act or any rule made thereunder or any condition of a certificate of registration or licence granted thereunder, shall be punishable—
- (i) for the first offence, with imprisonment for a term which may extend to [one year, or with fine which shall not be less

2025:PHHC:104983



than five thousand rupees but which may extend to twenty-five thousand rupees, or with both],

(ii) for the second and a subsequent offence, with imprisonment for a term which may extend to [two years, or with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees, or with both].

(4) If any person convicted of an offence under this Act commits a like offence afterwards it shall be lawful for the court before which the second or subsequent conviction takes place to cause the offender's name and place of residence, the offence and the penalty imposed to be published in such newspapers or in such other manner as the court may direct.

10. Section 30 of the Act, 1968 reads as under :

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.

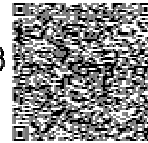
(2) For the purposes of section 17, an insecticide shall not be deemed to be misbranded only by reason of the fact that—

(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

(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

2025:PHHC:104983



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.

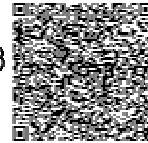
11. Section 31 of the Act, 1968, reads as under:-

31. Cognizance and trial of offences.-(1) No prosecution for an offence under this Act shall be instituted except by, or with the written consent of, the State Government or a person authorised in this behalf by the State Government. (2) No court inferior to that of a 1[Metropolitan Magistrate or a Judicial Magistrate of the first class] shall try any offence under this Act.

12. Further, Section 33 of the Act, 1968 reads as under:-

33. Offences by companies.-(1) 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:

2025:PHHC:104983



Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any Director, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

13. Section 468 of the Cr.P.C. reads as under:-

468. Bar to taking cognizance after lapse of the period of limitation.-

(1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub- section

(2), after the expiry of the period of limitation. (2) The period of limitation shall be-

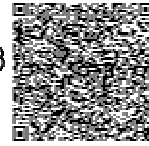
(a) six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for term exceeding one year but not exceeding three years.

(3) For the purposes of this section, the period of limitation in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable

2025:PHHC:104983



with the more severe punishment or, as the case may be, the most severe punishment.

14. Section 469 of Cr.P.C. reads as under:-

469. Commencement of the period of limitation.- (1) The period of limitation, in relation to an offender, shall commence,-

(a) on the date of the offence; or

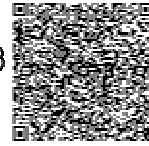
(b) where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or

(c) where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier.

(2) In computing the said period, the day from which such period is to be computed shall be excluded.

15. Now adverting to the present case. It is not in dispute that the respondent/complainant received the analysis report on 28.07.2011 from the testing laboratory. However, the complaint was lodged on 29.01.2018, which is beyond the period of three years from 27.07.2011. It is argued by learned State counsel that the further report from the Central Insecticide Laboratory, Faridabad was received on 07.12.2011. As per Section 469 of Cr.P.C., the period of limitation shall commence from the date of offence. As such, the same is to be computed from 21.07.2011. However, even if it is sought to be computed from 07.12.2011, still there is delay of more than three years in filing the impugned complaint. 28.07.2011 was the date of offence allegedly committed by the accused. Merely because the sample was sent for retesting to Central Insecticide Laboratory, Faridabad, limitation could not be

2025:PHHC:104983

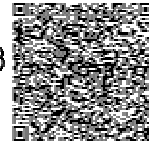


considered to have commenced from 07.12.2011. The report of analysis received from Insecticide Testing Laboratory, Amritsar on 28.07.2011 was itself indicated misbranding. Then, the period of limitation within the meaning of Section 469 of Cr.P.C. commences from that date only and since the complaint was filed only on 29.01.2018, it is barred by limitation. In this regard, this Court places reliance upon *M/s Mahindra Shubhlabh's* case (supra).

16. Further, in the present case, the sample was drawn from the original package of concerned insecticide. It is not the case of the complainant that sealed package was not properly stored by petitioner No. 1 or that at the time of taking sample, the container of insecticide was not found to be properly sealed or the seal was found to be tampered with. As such, the liability arising out of the misbranding cannot be that of marketing agency/distributor or its employees in the light of the provisions of Section 30(3) of the Act, 1968. Reliance in this regard can be placed upon *M/s Kishan Beej Bhandar, Abohar vs. Chief Agricultural Officer, Ferozepur and another : (1990) SCC (Criminal) 623*.

17. It is also worth mentioning that even Coordinate Bench of this Court in *M/s Rallis India Limited and others v. State of Punjab through Insecticide Inspector, CRM-M-20338-2017*, decided on 20.04.2022 has held that the petitioners i.e. marketing agency/licensed dealer cannot be held vicariously liable and penalized for misbranding of a product where they were not involved in the manufacturing process at all merely for having traded in the same.

2025:PHHC:104983



18. Now coming to the cases of the petitioners in other two petitions, who are sellers and manufacturers, respectively. So far as the case of M/s Gill Pesticides is concerned, the same is covered by the observations made above by this Court as it was not the manufacturer but the stockist and seller of the said pesticides. Although, M/s Crop Chemical India Ltd. is alleged to be the manufacturer of the said pesticide but once the complaint is found to be barred by limitation, the fact remains the same that it would not sustain even against manufacturers. Hence, it can safely be stated that the impugned complaint is liable to be quashed qua all i.e. distributors, stockist/seller and manufacturers.

19. In view of the discussion as made above, this Court finds that initiation and continuation of the impugned complaint and the consequent proceedings against the petitioners (in all the above mentioned three petition) are not legally justified and sustainable and the delay in filing of the complaint has resulted in misuse of the process of law. Accordingly, the present petitions are allowed and Criminal complaint bearing No. 11 of 2018 (Annexure P-2), titled as ***State vs. M/s Gill Pesticides and others***, impugned summoning order dated 29.01.2018 (Annexure P-1) as well as all the subsequent proceedings taken in pursuance thereof are quashed qua the petitioners herein.

20. Let a photocopy of this order be placed on the file of the connected cases.

13.08.2025

Waseem Ansari(MANISHA BATRA)
JUDGE*Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*