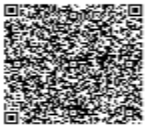


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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 08.01.2025

1. CRM-M-24646-2018 (O&M)

M/s Cheminova India Ltd. and others

... Petitioners

Vs.

State of Punjab and others

... Respondents

2. CRM-M-39675-2019 (O&M)

M/s Sushil Kheti Sewa Centre and another

... Petitioners

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Nitin Thatai, Advocate
for the petitioners (in both cases).

Mr. Rishabh Singla, AAG Punjab.

HARPREET SINGH BRAR, J. (ORAL)



1. This common judgment shall dispose of aforementioned two petitions filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') [*now Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS')*] for quashing the complaint bearing No.23/2017 dated 18.08.2017 under Sections 3(K)(1), 17, 18, 29, 33 of the Insecticides Act, 1968 (for short 'Act of 1968'), filed against the petitioners, which is pending before learned Judicial Magistrate 1st Class, Dhuri.

2. Briefly, the facts are that on 03.12.2013 at about 02:30 p.m., respondent No.2-complainant inspected the premises of respondent No.3-M/s Sushil Kheti Sewa Centre, Tehsil Dhuri District Sangrur in the presence of Agriculture Sub-inspector, Dhuri. He disclosed the identity to respondent No.4-Sushil Kumar, being proprietor of respondent No.3, who was present on the spot. Respondent No.2 observed that respondent No.3 was selling, exhibiting for sale and stocking pesticide including Indoxacarb 14.5% SC brand *Lashkar*. The said pesticide was purchased by the dealer directly from petitioner No.1-manufacturer. Thereafter, respondent No.2 drew some samples of the said product and one sealed sample was sent to the Insecticide Testing Laboratory, Bathinda for analysis on 03.12.2013. The first sample report was not confirming to IS specifications containing only 13.24% SC active ingredient against 14% SC, which is printed on the label of container and hence, the said product was declared to be misbranded. Consequently, a show



cause notice was served to the accused on 01.01.2014. Responded No.4 made a request for re-analysis, which was allowed on 04.04.2014. The second sample report dated 08.09.2014 also declared the product to be misbranded, as to the relevant IS specifications, present active ingredient found to be 12.73% SC instead of the required 14% SC. After receiving sanction, as per the requirement of Section 31(1) of Act of 1968, criminal proceedings had been initiated against the accused.

3. Learned counsel for the petitioners, *inter alia*, contends that petitioner No.4 is responsible person for quality control of the formulation of the said product. This fact was also intimated to the respondents by petitioner No.2. As such, criminal prosecution against petitioners No.1, 2, 3 and 5 is misconceived. Learned counsel for the petitioner has also taken a specific ground that no Court can take cognizance of an offence beyond the period of limitation provided under Section 468 of Cr.P.C. (*now Section 514 of BNSS*). In the instant case, first report of Insecticide Testing Laboratory, Bathinda received on 12.12.2013, while the complaint was filed on 18.08.2017, after a delay of 03 years, 08 months and 06 days. The offence under Section 29 of Act of 1968 is punishable with two years of imprisonment, therefore, as per Section 468(2)(c) of Cr.P.C. (*now Section 514(2)(c) of BNSS*), the period of limitation for taking cognizance of the same would be three years. In support of his arguments, learned counsel for the petitioners relies upon judgments of this



Court in the case of *M/s Amsons Laboratories Private Limited Vs. State of Punjab*, CRM-M-38050 of 2022, decided on 07.02.2024, *Lalit Mohan Mehta and others Vs. State of Punjab*, 2024 (2) RCR (Criminal) 51, *M/s Cheminova India Ltd. & another Vs. State of Punjab and others*, S.L.P (Crl.) No.4102 of 2020.

4. *Per contra*, learned State counsel opposes the prayer made by the petitioner(s) and submits that learned trial Court has rightly passed the order dated 18.08.2017 summoning the petitioners.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the sample in the present case was drawn on 03.12.2013 and report from the Insecticide Testing Laboratory, Bathinda was received on 12.12.2013. A show cause notice on the basis of aforementioned report was issued on 01.01.2014, whereas the complaint (*supra*) was filed on 18.08.2017 and it was in the knowledge of Insecticide Inspector with regard to offence under Section 29 of Act of 1968. Reliance in this regard is placed upon judgment of this Court in *M/s Amsons laboratories Private Ltd.*'s case (*supra*), in which it has been held as under:-

“The offence under Section 29 of the Act is punishable with 02 years of imprisonment, therefore, as per Section 468(2)(c) of Cr.P.C., the period of limitation for taking cognizance of the same would be three years. No doubt, the Court has the power to extend the period of limitation in certain cases under Section 473 Cr.P.C.



*and an application to that effect was also filed by the complainant in the present case, but the learned trial Court has erred by passing the impugned summoning order without deciding on the question of delay since the complaint was filed after the expiry of the limitation period. This Court in **M/s Kheti Sewa Centre, Ludhiana v. State of Punjab 2003(1) R.C.R(Criminal) 310** and **M/s Balajit Sales Corporation Vs. State of Punjab CRM-M-18077-2011 decided on 08.10.2012** had set aside the proceedings arising out of complaints under the Act filed after the expiration of the limitation period.”*

6. A two Judges Bench of the Hon’ble Supreme Court in **M/s Cheminova India Ltd.**’s case (*supra*), speaking through Justice R. Subhash Reddy, has held as under: -

“Section 468 of Cr.PC prohibits taking cognizance of an offence after the lapse of period of limitation. As per subsection (2)(c) thereof, the period of limitation is three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years. Section 469 of Cr.PC deals with the ‘commencement of the period of limitation’. As per the said provision, the period of limitation, in relation to an offender, shall commence on the date of offence or where the commission of the offence was not Crl.A.@S.L.P.(Crl.)No.4102 of 2020 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.”

7. As such, case of the petitioners is squarely covered by the judgment of the Hon’ble Supreme Court in **M/s Cheminova India Ltd.**’s case

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(*supra*).

8. Keeping in view the facts and circumstances of the case and the ratio of law settled by the Hon'ble Supreme Court, both these petitions are allowed and the complaint bearing No.23/2017 dated 18.08.2017 under Sections 3(K)(1), 17, 18, 29, 33 of Act of 1968, pending before learned Judicial Magistrate 1st Class, Dhuri, is hereby set aside.

9. All the pending miscellaneous application(s), if any, shall stand disposed of.

[HARPREET SINGH BRAR]
JUDGE

08.01.2025
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No