



CRM-M-14271-2025 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM-M-14271-2025 (O&M)

Reserved on : 04.09.2025

Pronounced on : 31.10.2025

Tirath Ram

..... Petitioner

VERSUS

State of Punjab & Ors.

..... Respondents

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by: Mr. B.S. Sudan, Advocate for the petitioner.

Mr. K.D. Sachdeva, DAG Punjab.

SURYA PARTAP SINGH, J.

1. The petitioner, who, by virtue of order dated 30.05.2019, passed by the Court of learned Chief Judicial Magistrate Fatehgarh Sahib, hereinafter being referred to as 'trial Court', has been summoned to face trial for the commission of offence punishable under Sections 18(1)(i) and 27(d) of the Drugs and Cosmetics Act, 1940. He is aggrieved of the abovementioned order, and therefore, he has challenged the same and is seeking the quashing of the abovementioned order.

2. Briefly stating the facts emerging from record are that the State of Punjab through District Drug Inspector, Fatehgarh Sahib filed a complaint against three persons, wherein the petitioner has been arrayed as accused



No.2. The allegations, as contained in the abovementioned complaint, are that the premises of M/s City Chemist, Mandi Gobindgarh, District Fatehgarh Sahib were checked by the abovementioned complainant along with Drug Inspector, Mohali in the presence of Kamal Batra, the partner and qualified person of the firm. According to complainant, during inspection, the sealed samples of drugs, i.e. N-Clav Dry Syrup, and 04 samples of tablet Acimol-MR were collected, as per prescribed rules and procedure. As per complainant, the abovementioned samples were sent to Government Analyst Punjab for testing, who on examination of the abovementioned samples, submitted a report declaring therein that the abovementioned drugs were not of sub-standard quality.

3. It has been further alleged by the complainant that the abovementioned drug was manufactured by 'M/s Curehealth Pharmaceuticals Pvt. Ltd.', who has been arrayed as accused No.1. According to complainant, the petitioner and Nand Lal Sharma, being Director of the manufacturer of abovementioned company, are responsible for the sub-standard quality of the drug. Hence, the complaint.

4. The present petition has been filed by the petitioner on the ground that the order, passed by the learned trial Court, is a non-speaking order, wherein the role attributed to the petitioner has not been explained. In addition to above, the petitioner has also alleged that the Drug Inspector was not duly notified for collection of sample, and filing of complaint, and that



the necessary guidelines prescribed by DCGI were not followed in the present case. Besides this, it has also been pleaded by the petitioner that the complaint has been filed on expiry of shelf-life, which has deprived the petitioner of his right to get the second sample tested. In addition to above, the petitioner has also alleged that he cannot be vicariously liable for the commission of abovementioned offence as he has already resigned from the abovementioned company way back on 05.06.2017.

5. Heard.

6. It has been contended on behalf of petitioner that the impugned order has been passed by the learned trial Court without application of judicial mind, and that the content of the order in itself makes it abundantly clear that the learned trial Court has not considered the role attributed to the petitioner. According to learned counsel for the petitioner, merely, on the basis of conjectures and surmises, the learned trial Court passed the summoning order, and that the summoning order is defective in view of the fact that in the impugned order there is no reference of taking cognizance against the petitioner or any other accused. While referring to the principles of law laid down by the Hon'ble Supreme Court of India in various cases, i.e. in the cases of Criminal Appeal No.487 of 2025, titled as 'M/s JM Laboratories and Others Vs. State of Andhra Pradesh and Another', 'Lalankumar Singh and Others Vs. State of Maharashtra', 2022 SCC OnLine SC 1383, 'Sunil Bharti Mittal Vs. Central Bureau of Investigation', (2015) 4



SCC 609, and ‘Mehmood Ul Rehman Vs. Khazir Mohammad Tunda and Others’, (2015) 12 SCC 420, it has been argued by learned counsel for the petitioner that the impugned order is not sustainable and deserves to be quashed.

7. The other contention raised by learned counsel for the petitioner pertains to the role of the petitioner in the commission of alleged offence. It has been argued by learned counsel for the petitioner that without specifying the exact role played by the petitioner in the commission of crime, he has been summoned to face trial. It is further submitted that the learned trial Court has ignored the fact that, *firstly*, the officer, who filed the complaint, was not competent to do so, for want of a due notification authorizing him under the Drugs and Cosmetics Act; *secondly*, the complaint was filed after the expiry of the shelf-life of the drug; and *thirdly*, the petitioner had already resigned from the company prior to the filing of complaint.

8. *Per contra*, the learned State Counsel has argued that the plea taken by the petitioner in the present case are frivolous in nature, and does not contain a valid ground for quashing of impugned order. According to the learned State Counsel, once the complaint was filed by the Drug Inspector in his official capacity, the necessity to lead preliminary evidence or pass a detailed order was not there. As per learned State Counsel, with regard to other grounds taken by the petitioner in the present petition, i.e. competence of Drug Inspector to file a complaint, or resignation of petitioner from the



company subsequent to the manufacturing of drugs, and violation of other guidelines, are the subject matter of trial. According to learned State Counsel, on the grounds, pleading by the petitioner in this petition, the quashing of complaint/summoning order is not permissible under the law.

9. The record has been perused carefully.

10. A perusal of record shows that on 30.05.2019, the learned trial Court had issued notice to the accused. The abovementioned order reads as under:-

“Complaint under Drugs and Cosmetics Act has been filed. It be registered. As the present complaint has been filed by the representative officer in discharge of his public duties, hence, the recording of the statement for complainant evidence is hereby dispensed with. Notice to the accused be issued for 01.08.2019.”

11. A bare perusal of abovementioned order shows that the learned trial Court in the impugned order has dealt with a plea that the complaint has been filed by a public servant in official capacity, and therefore, there was no need to record the statement of complainant or lead any preliminary evidence. As far as the abovementioned observation of learned trial Court is concerned, there is no dispute qua the same and therefore, it is hereby held that with regard to abovementioned observations there is no scope for interference.

12. The second component dealt with by the learned trial Court in the abovementioned order is the summoning of accused. It is indeed strange



that in the impugned order, the learned trial Court has not even observed whether, on the basis of the contents of the complaint and the supporting evidence, a prima facie case for taking cognizance against the accused is made out or not. In the absence of any finding as to whether cognizance has been taken by the learned trial Court, the issuance of summons to the accused and the consequent notice ought not to have been issued. The impugned order is absolutely silent on the aforesaid aspect. In fact, a bare reading of the said order does not reveal for what purpose the notice was issued by the learned trial Court.

13. For the sake of argument, even if it is assumed that the notice was issued by the learned trial Court for summoning the petitioner and two other persons, who have been arrayed as accused, the impugned order still does not comply with the requisite directions issued by the Hon'ble Supreme Court of India in its judicial pronouncements, which prescribe that a summoning order must be a speaking order.

14. In the case of *M/s JM Laboratories* (supra), the Hon'ble Supreme Court of India while referring to the observations made in former judgment in the case of 'INOX Air Products Pvt. Ltd. & Anr. Vs. The State of Andhra Pradesh' has observed that the 'summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law



set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused’.

15. In the case of Lalankumar Singh (supra), the Hon’ble Supreme Court of India has propounded that ‘the order of issuance of process is not an empty formality. The Magistrate is required to apply his mind as to whether sufficient ground for proceeding exists in the case or not. The formation of such an opinion is required to be stated in the order itself. The order is liable to be set aside if no reasons are given therein while coming to the conclusion that there is a prima facie case against the accused. No doubt, that the order need not contain detailed reasons’.

16. Similarly, in the case of *Mehmood Ul Rehman* (supra), the Hon’ble Supreme Court of India has observed that the Magistrate is not to act as a post office in taking cognizance of every complaint filed before him and issuing process as a matter of course. According to Hon’ble Supreme Court of India there must be sufficient indication in the order passed by the Magistrate that he is satisfied that the allegations made in the complaint constitute an offence, and that, when considered along with the statements



recorded and the result of any inquiry or investigation report under Section 202 of the CrPC, the accused is answerable before the criminal court.

17. The Hon'ble Supreme Court of India, in the abovementioned case, has further observed that the application of mind is best demonstrated by the disclosure of reasons indicating such satisfaction, and if there is no such indication in a case where the Magistrate proceeds under Sections 190 and 204 of the CrPC, the High Court, in exercise of its inherent powers under Section 482 of the CrPC, is bound to intervene to prevent abuse of the process of the criminal court. The Hon'ble Supreme Court has also emphasized upon the principle, that to be called to appear before a criminal court as an accused is a serious matter affecting one's dignity, self-respect, and social reputation, and therefore, the process of the criminal court should not be used as an instrument of harassment.

18. If the impugned order is appreciated in light of the aforesaid principles of law, it becomes evident that it does not meet the requirements prescribed by the Hon'ble Apex Court, and therefore, as observed in the case of *Mehmood Ul Rehman* (supra), this Court is under an obligation to quash the same.

19. As far as the other grounds taken by the petitioner in the complaint are concerned, in view of the fact that the impugned order is not sustainable for the reasons discussed hereinabove, and since the aforesaid pleas can be raised by the petitioner before the learned trial Court at the



stage of framing of charge, this Court refrains from recording any specific finding on the other grounds taken in the present petition.

20. As a sequel to the foregoing observations, it is hereby held that the present petition deserves to be allowed and the impugned order deserves to be quashed. Accordingly, by allowing the present petition, the impugned order is hereby quashed, and the learned trial Court is directed to pass a fresh order in light of observations made in this judgment.

21. Pending miscellaneous application(s), if any, stand(s) disposed of, accordingly.

(SURYA PARTAP SINGH)
JUDGE

OCTOBER 31, 2025
Gaurav Thakur

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No