



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

CRM-M No.26813 of 2023

Reserved on: 03.04.2025

Pronounced on: 24.04.2025

M/s. Puppy Pesticides and Another

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE H.S. GREWAL

Present: Mr. Arun Chandra, Advocate
for the petitioners.

Mr. Eklavya Darshi, DAG, Punjab.

H.S. GREWAL J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of Criminal complaint bearing No.COMA/15/2018 dated 05.03.2018 titled as State of Punjab Vs. M/s. Puppy Pesticides and Others under Section 27(5) of the Insecticide Rules, 1971 for violation of Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968 (for short 'the Act') and also summoning order dated 01.03.2018 passed by learned Chief Judicial Magistrate, Fatehgarh Sahib alongwith all consequential proceedings arising therefrom.

2. Learned counsel for the petitioners contends that on 25.03.2010, the Agricultural Development Officer, Block Amloh, District Fatehgarh Sahib visited the premises of the petitioner and took sample of Phorate 10% (G) granules from the original packing and after taking the sample and dividing it into three parts, one part of the sample was sent for analysis to the Insecticide Quality Control



Laboratory, Amritsar. Thereafter on 29.03.2010, the said sample was found to be misbranded and on the basis of the said report, the present complaint dated 27.02.2018 was brought in the Court of learned Chief Judicial Magistrate and consequently on 01.03.2018, summoning orders were issued to the petitioners. He further contends that it is an admitted fact that the sample drawn was from the Dealer i.e. from the Company's original packing as the petitioner is not the manufacturer. The petitioner was selling the insecticide in sealed containers in original form as obtained from the registered manufacturer i.e. United Phosphorus Limited i.e. Vapi Gujarat through M/s. Swal Corporation Limited, Mumbai. He further contends that since the petitioner is only a dealer, he could not be prosecuted for misbranding of the sealed containers as the dealer and Distributor are not liable for misbranding of the said insecticide. The liability, if any, is on the manufacturer.

3. Learned counsel for the petitioners further contends that as per provisions of Section 470 Cr.P.C, the period for obtaining sanction for prosecution from the date of its application (i.e. 10.6.2013) till the date of its grant (i.e. 07.04.2017) has to be exempted from the period of limitation. The grant of sanction for prosecution was applied to the competent authority on 10.06.2013 and the sanction for the same was accorded on 07.04.2017 which took 03 years and 10 months after it was applied for. The sanction request to the competent authority was applied for after more than a period of 03 years from the date of sample having been found to be misbranded i.e. 29.03.2010. Furthermore, the prosecution eventually was launched on 01.03.2018 after the lapse of more than 11 months from the grant of sanction from the higher authority. It is argued that even if the period of grant of sanction for prosecution from the date of its application till its grant is excluded from the period of limitation, even then also the case is found to



be barred by limitation.

4. Learned counsel for the petitioners further contends that under Section 29 of the Insecticide Act, the maximum punishment under any section of the Insecticide Act is of imprisonment for 02 years. Therefore, as per Section 468(3) of Cr.P.C, the limitation for filing the complaint under Insecticide Act would be 03 years.

5. Learned counsel for the State vehemently opposes the prayer made by the petitioners, by way of filing of affidavit of Satish Kumar, Insecticide Inspector, Fatehgarh Sahib dated 15.04.2024 wherein it is stated that the result of misbranding is dated 29.03.2010 and after receiving the report, show cause notice alongwith copy of test report was sent to the accused Dealer/Distributor/Manufacturer, respectively, on different dates. Thereafter, on request of the petitioners, second sample was sent for retesting which was also found to be misbranded vide report dated 01.06.2010 as well. Subsequently, request was made to the higher competent authority for grant of sanction for instituting the complaint under Section 27(5) of the Insecticide Rules, 1971 against the petitioners vide request dated 10.06.2013 and the competent authority accorded the sanction vide its letter dated 07.04.2017. Thereafter, the complaint was filed before the trial Court on 27.02.2018. He further states that since the trial Court has power to extend the period of limitation in any case under Section 473 Cr.P.C. after satisfying the facts and circumstances of the case, therefore, the petitioners could not take the benefit of such delay which had occurred in filing the complaint only.

6. I have heard learned counsel for the parties.

7. The main argument of learned counsel for the petitioners is that under Section 29 of the Act, the maximum punishment for the offence alleged against the petitioners is of imprisonment for 02 years. Therefore, as per Section 468(2)



of Cr.P.C, the limitation for filing the complaint under the Act would be 03 years. It is further contended that as per the judgment of the Hon'ble Supreme Court rendered in **1998(3) R.C.R.(Criminal)846** titled as **“State of Rajasthan vs. Sanjay Kumar”**, the limitation for filing of the complaint would start from the date of receipt of the report of Public Analyst. In the present case, the report of the Insecticide Quality Control Lab, Amritsar was received on 29.03.2010. Even the second part of the sample was found misbranded on 01.06.2010. Thereafter, the Chief Agriculture Officer and the Complainant, Insecticide Inspector, went in slumber and did not even apply for sanction of prosecution. After much delay on 10.06.2013, the sanction of prosecution was applied for by the Complainant and the same was received on 07.04.2017. However, no complaint was filed by the Insecticide Inspector against the petitioners. Ultimately the complaint against the petitioners was filed only on 27.02.2018. Hence the complaint is time barred, *per se*. Such a huge delay has altogether prejudiced the defence of the petitioners, due to limitations of human memory. It is further contended by learned counsel for the petitioners that Section 468 Cr.P.C. prohibits the Court from taking cognizance of the offence, if the same is not brought to the Court within a period of limitation. Hence in the present case, taking of the cognizance by the Court itself stands vitiated. Accordingly, it is contended that the summoning order passed against the petitioners can not be sustained. The counsel has further relied upon the judgment of the Hon'ble Supreme Court rendered in **2015(3) RCR(Criminal) 661; Sirajul and others vs. State of UP and another** to contend that if the complaint is filed despite statutory bar then the complaint is liable to be quashed without much inquiry. Learned counsel has also relied upon the judgment of this Court rendered in **CRM-M-6332-2018**, titled as **“Sohan Singh and others Vs. State of Punjab”**, to contend that in similar circumstances the complaint and the summoning orders



were quashed by this Court.

8. Having heard the learned counsel for the parties, this Court finds adequate substance in the argument raised by learned counsel for the petitioners. A bare perusal of the facts of the case on record shows that the report of the Public Analyst had been received by the complainant on 29.03.2010 and 01.06.2010. Thereafter, for about 3 years the sanction for prosecution was not even applied. Even the sanction for prosecution, though applied too belatedly on 10.06.2013, was granted on 07.04.2017 itself. Hence as per the mandate of Section 468(2) of Cr.P.C and judgment of Hon'ble Supreme Court in the case of ***State of Rajasthan Vs. Sanajy Kumar*** (*supra*) complaint in the present case could have been filed, at the best, within a period of 03 years from the date of receipt of report of the Government Analyst. However, the complaint has been filed after more than 07 years from the said date. Hence, the complaint in the present case is hopelessly time barred.

9. Since taking of cognizance by the Court itself is prohibited; in case the complaint not filed within the prescribed period, therefore, the subsequent proceeding in the form of summoning, order also stands vitiated. This Court has already considered this aspect in the case of ***Sohan Singh and others Vs. State of Punjab*** (*supra*).

10. In view of the above facts and circumstances, this Court finds that the initiation and continuation of a complaint and the consequent proceedings against the petitioners, are not legally justified and sustainable. Because of the delay caused by the complainant, the present proceedings have resulted in misuse of the process of law and in defeating the ends of justice. The petitioners can no more be kept subjected to the proceedings of the complaint. Therefore, the complaint and consequent proceedings arising therefrom, deserve to be quashed.



11. Accordingly, the present petition is **allowed** and the Complaint No. COMA/15/2018 dated 05.03.2018 titled as State of Punjab Vs. M/s. Puppy Pesticides and Others under Section 27(5) of the Insecticide Rules 1971 for violation of Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968 and summoning order dated 01.03.2018 are hereby quashed *qua* the petitioners.

24th April, 2025
Sonia Puri

(H.S. GREWAL)
JUDGE

<i>Whether speaking/ reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether reportable</i>	:	<i>Yes</i>	/	<i>No</i>